

practicable, permissible mining activities shall be regulated to assure that they are conducted in a manner which will best assure the purposes for which the Recreation Area was established.

(f) *Range management.* Ranching and grazing in existence on December 31, 1975 are traditional and valid uses of the Recreation Area. Consistent with these uses, range resources in the Recreation Area shall be managed in accordance with existing regulations at 36 CFR parts 219.20 and 222 in a manner compatible with the purposes for which the area was established and administered as defined in section 7 of the Act.

(g) *Wildlife and fisheries.* (1) Management of wildlife and fisheries resources within the Recreation Area shall:

(i) Maintain or enhance wildlife habitat for non-game and game species by emphasizing diversity of habitat;

(ii) Enhance opportunities for threatened and endangered species to survive and increase in numbers; and,

(iii) Provide for public enjoyment and for protection of wildlife.

(2) As provided by section 12 of the Act (16 U.S.C. 460gg-9), the Forest Supervisor may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration of the area, or public use and enjoyment.

(h) *Other resources.* The Plan shall establish management direction and standards for wilderness, soil and water, wild and scenic rivers, developed recreation, and other values and resources of the Recreation Area consistent with the Act and other applicable laws, orders, and regulation.

Dated: September 29, 1989.

Jack C. Parnall,  
Deputy Secretary.

[FR Doc. 89-23634 Filed 10-4-89; 8:45 am]

BILLING CODE 3010-11-B

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL-3647-71]

### Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

**SUMMARY:** EPA is amending an error in the regulatory text that was published in the Federal Register on September 27,

1984. That notice approved a revision to the Missouri State Implementation Plan involving start-up, shutdown, and malfunction conditions.

**EFFECTIVE DATE:** October 5, 1989.

**FOR FURTHER INFORMATION CONTACT:** Carol LeValley, EPA Region VII Air Branch, at (913) 236-2893 (FTS 757-2893).

**SUPPLEMENTARY INFORMATION:** EPA published a final rulemaking in the Federal Register (45 FR 27932) on May 22, 1981, involving provisions for start-up, shutdown, and malfunction conditions. In this rulemaking an error was made in the sentence "Included in the plan \* \* \*." In this sentence a reference was made to Missouri rule 10 CSR 10-4.050; the rule should have been 10 CSR 10-5.050. This error was corrected by amending 40 CFR 52.1320(c)(27) in a final rulemaking published in the Federal Register (49 FR 38103) on September 27, 1984.

When this notice was published on September 27, 1984, some of the narrative language published in the original rulemaking was inadvertently deleted. Today's notice reinstates the deleted material. This amendment does not change the substantive requirements of the approved plan.

Dated: August 29, 1989.

Morris Kay,  
Regional Administrator.

### PART 52—[AMENDED]

40 CFR Part 52, Subpart AA, is amended as follows:

#### Subpart AA—Missouri

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1320 is amended by revising paragraph (c)(27) to read as follows:

#### § 52.1320 Identification of Plan.

(c) \* \* \* (27) On September 5, 1980, the state of Missouri submitted a plan revision which involved provisions for start-up, shutdown, and malfunction conditions. Included in the plan are new Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions; and revisions to Rule 10 CSR 10-6.020, Definitions and Amended Start-up, Shutdown and Malfunction Provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040, and 10-5.050.

[FR Doc. 89-21960 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Parts 52, 81

[FRL-3636-8]

### Approval and Promulgation of State Implementation Plans, North Dakota; Visibility Protection; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

**SUMMARY:** In this action, EPA is approving the general plan requirements and the long-term strategy (LTS) for visibility protection in North Dakota's mandatory Class I federal areas in a revision to the North Dakota State Implementation Plan (SIP). This action is a result of the November 24, 1987, (52 FR 45132) rulemaking at which EPA disapproved North Dakota's SIP for failing to comply with the provisions of 40 CFR 51.302 (visibility general plan requirements) and 51.306 (visibility LTS). EPA also incorporated these federal plans and regulations into North Dakota's SIP.

The Governor of the State of North Dakota submitted a SIP revision on April 18, 1989. The revision: (1) Established new and revised existing New Source Performance Standards, (2) updated existing State rules (including Prevention of Significant Deterioration regulations) and control strategies to address PM-10, and (3) added a control strategy to address visibility protection. This action only addresses visibility protection; the other portions of the submittal will be addressed in separate actions.

Review of the visibility protection plan indicates that North Dakota has met the criteria of 40 CFR 51.302 and 51.306, and that these revisions will replace the federal visibility regulations of 40 CFR 52.29 in the North Dakota SIP.

Also in this action, EPA is revising 40 CFR 81.423 to reflect that Theodore Roosevelt National Memorial Park was renamed Theodore Roosevelt National Park.

**DATES:** This action will be effective on December 4, 1989, unless notice is received by November 6, 1989, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the State submittal are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations:



Air and Toxics Division

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCYREGION 7  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

9-26-89

TO: Vickie Reed (PPM-223)

Attached is the first  
page of the Amended  
Notice on the Missouri  
State Implementation Plan.  
I have changed the  
summary and hope  
it answers all the  
questions.

Thanks  
Carol Lucalley  
757-2893



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans;  
State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending an error in the regulatory text that was published in the FEDERAL REGISTER on September 27, 1984. That notice approved a revision to the Missouri State Implementation Plan involving start-up, shutdown, and malfunction conditions.

EFFECTIVE DATE: (Insert date of publication in the FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Carol LeValley, EPA Region VII Air Branch, at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION:

EPA published a final rulemaking in the FEDERAL REGISTER (46 FR 27932) on May 22, 1981, involving provisions for start-up, shutdown, and malfunction conditions. In this rulemaking an error was made in the sentence "Included in the plan . . . ." In this sentence a reference was made to Missouri rule 10 CSR 10-4.050; the rule should have been 10 CSR 10-5.050. This error was corrected by amending 40 CFR 52.1320(c)(27) in a final rulemaking published in the FEDERAL REGISTER (49 FR 38103) on September 27, 1984.

*Concise - This notice was carried  
in amended notice on the MO SIP*

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans;

State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: ~~EPA is amending 40 CFR Part 52, Section  
52.1320(c)(27) which was published as a final rule at 49 FR-  
38103-38104 on September 27, 1984.~~

EFFECTIVE DATE: (Insert date of publication in the FEDERAL  
REGISTER.)

FOR FURTHER INFORMATION CONTACT: Carol LeValley, EPA Region  
VII Air Branch, at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION:

EPA published a final rulemaking in the FEDERAL REGISTER  
(46 FR 27932) on May 22, 1981, involving provisions for  
start-up, shutdown, and malfunction conditions. In this  
rulemaking an error was made in the sentence "Included in  
the plan . . . ." In this sentence a reference was made  
to Missouri rule 10 CSR 10-4.050; the rule should have been  
10 CSR 10-5.050. This error was corrected by amending 40 CFR  
52.1320(c)(27) in a final rulemaking published in the FEDERAL  
REGISTER (49 FR 38103) on September 27, 1984.

*EPA is amending an error in the regulatory text  
that was published in the Federal Register  
on September 27, 1984. That notice approved  
a revision to the Missouri State Implementation Plan  
involving start-up, shutdown, and malfunction conditions.*

August 30, 1989

MEMORANDUM

SUBJECT: Amended Notice on the Missouri State Implementation Plan (SIP)

FROM: Carol D. LeValley  
SIP Processing Coordinator  
Air Planning and Development Section - Region VII

TO: Vickie Reed (PM-223)  
Federal Register Office

Attached are an original and four copies of an amended notice to be published in the Federal Register. Also attached is a signed typesetting request form.

The effective date of this notice will be the date of its publication in the Federal Register. Please insert the appropriate date in the EFFECTIVE DATE section of the document.

If you have any questions, please contact me at FTS 757-2893.

Attachments

ARTX/ARBR/PLDE: LeValley: ctb: 8/7/89: Disk 4, #12

PLDE *CDL*  
LeValley  
8/16/89

PLDE *[Signature]*  
Leidwanger  
8/16/89

yellow

AUG 23 1989

MEMORANDUM

SUBJECT: Amended Notice on the Missouri State Implementation Plan

FROM: William A. Spratlin *William A. Spratlin*  
Director, Air and Toxics Division

TO: Morris Kay  
Regional Administrator

IDENTIFICATION OF ACTION

Attached for your signature is a rulemaking that amends a Federal Register notice published on September 27, 1984.

Federal Notice 49 FR 38103 was published on September 27, 1984, and amended Section 52.1320(c)(27) to correct a typographical error in a rule number. When the amendment was published the rule number was corrected, but important narrative was deleted in the published material.

This notice reinstates the material deleted and amends Section 52.1320(c)(27). This amendment is minor in nature and a communications strategy is unnecessary.

Attachment

ARTX/ARBR/PLDE: LeValley: ctb: 8/7/89: Disk 4, #11

PLDE <i>CSH</i> LeValley 8/14/89	PLDE <i>W</i> Leidwanger 8/16/89	ARBR Walter 8/16/89 <i>CWE</i>	CNSL Patrick 8/17/89 <i>Patrick</i>	ARTX Spratlin 8/17/89 <i>CSH</i> <i>9/8/89</i>	PBAF Michaels 8/24/89 <i>Michael</i>	RGAD Kay / /89
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans;  
State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending 40 CFR Part 52, Section 52.1320(c)(27) which was published as a final rule at 49 FR 38103-38104 on September 27, 1984.

EFFECTIVE DATE: (Insert date of publication in the FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Carol LeValley, EPA Region VII Air Branch, at (913) 236-2893 (FTS 757-2893).

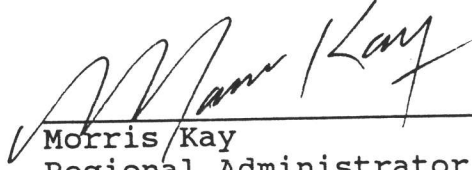
SUPPLEMENTARY INFORMATION:

EPA published a final rulemaking in the FEDERAL REGISTER (46 FR 27932) on May 22, 1981, involving provisions for start-up, shutdown, and malfunction conditions. In this rulemaking an error was made in the sentence "Included in the plan . . . ." In this sentence a reference was made to Missouri rule 10 CSR 10-4.050; the rule should have been 10 CSR 10-5.050. This error was corrected by amending 40 CFR 52.1320(c)(27) in a final rulemaking published in the FEDERAL REGISTER (49 FR 38103) on September 27, 1984.

When this notice was published on September 27, 1984, some of the narrative language published in the original rulemaking was inadvertently deleted. Today's notice reinstates the deleted material. This amendment does not change the substantive requirements of the approved plan.

8-29-89.

Date

  
Morris Kay  
Regional Administrator

Part 52 - (AMENDED)

40 CFR Part 52, Subpart AA, is amended as follows:

SUBPART AA - Missouri

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 - 7642

2. Section 52.1320 is amended by revising paragraph (c)(27) to read as follows:

§ 52.1320 Identification of Plan

\* \* \* \* \*

(c) \* \* \*

(27) On September 5, 1980, the state of Missouri submitted a plan revision which involved provisions for start-up, shutdown, and malfunction conditions. Included in the plan are new Missouri Rule 10 CSR 10-6.050, Start-up Shutdown, and Malfunction Conditions; and revisions to Rule 10 CSR 10-6.020, Definitions and Amended Start-up, Shutdown and Malfunction Provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040, and 10-5.050.

[illegible][illegible]

<b>FEDERAL REGISTER TYPESETTING REQUEST</b>																																													Requestor: Complete items 1, 2, 7, 8, 9, 10, 11, 12 and 13. Retain copy number 7 and submit the balance with manuscript copy to the Hq. Federal Register Office.  HQ Federal Register Office: Complete items 3, 4, 5 and 6. Retain copy number 6 and submit balance to Hq. Printing Management.																											
<b>1. TITLE</b>  Amended Notice on the Missouri State Implementation Plan																																																																								
<b>2. SUBMITTING ACTIVITY</b>  EPA/ARTX/ARBR/PLDE																									<b>3. ASSIGNED FRL NUMBER</b> <i>(include alpha &amp; numeric characters for identification.)</i>																																															
<b>4. OPEN REQUISITION NUMBER</b>																									<b>5. BILLING CODE</b>																																															
<b>6. FORWARDED TO GSA, NARS - SIGNATURE</b>  																																								<b>DATE</b>																																
<b>7. NUMBER OF MANUSCRIPT PAGES</b>  3															<b>8. ESTIMATED NUMBER OF COLUMNS</b>  2															<b>9. ESTIMATED COST</b>  \$250.00																																										
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<b>11. SIGNATURE: (a) REQUESTING OFFICER</b> Wayne G. Leidwanger, Chief Air Planning and Development Section															<b>12. SIGNATURE: (a) FEDERAL REGISTER DESIGNEE</b>  																																																									
<b>(b) DATE</b> August 31, 1989															<b>(c) TELEPHONE NUMBER</b> FTS 757-2893															<b>(b) DATE</b>															<b>(c) TELEPHONE NUMBER</b> FTS 757-2830																											
<b>13. FUNDS ARE AVAILABLE</b> <i>(Commitment Clerk)</i> <i>Beverly J. Michael 9/8/89</i>																																																																								

sent airborne express 9-8-89

[illegible]



## ACTIONS PROCESSED UNDER TABLES 2 or 3

5/25/89

## FINAL ACTIONS

Office	Action Memo	FR Notice & Rulemaking Page	<del>TSD</del>	<del>State Submittal</del>	<del>IBR'd Mat'l</del>	<del>Memo to OFR</del>	Type-Setting Request Form	<del>Communi. Strategy</del>	<del>Public Comments</del>	<del>Rule-making Check-list</del>	<del>Enforceability Check-</del>	PM 10 Check-list	<del>Complete-ness Checklist</del>
Regional Office Files	1(1)	1	1(1)	1(1)	1(1)	1	1	1	1	1	1(4)	1(5)	1
FRO													
Vickie Reed	0	5(1)	0	0	2	1(1)	1(1)	0	0	0	0	0	
Judy Rohrer	0	0	0	0	0	0	0	1(2)	0	0	0	0	
Gwen Brown	0	0	0	0	0	0	0	1(3)	0	0	0	0	
Mattie Bright	0	0	0	0	0	0	0	1(3)	0	0	0	0	
TOTAL	1	6	1	1	3	2	2	4	1	1	1	1	1

## NOTES:

- (1) One copy should be original
- (2) Only if SIP has Congressional interest.
- (3) All other Comm. Strategies that do not have congressional interest.
- (4) Only for SIP packages dealing with regulations (not required for generic rules, eg., NSR/PSD, permit fees, etc.)
- (5) Only for SIP packages dealing with PM 10.

TYPESETTING  
REQUEST TO  
FNUMG 8-31-89

2-F

these revisions, that EPA proposed on October 22, 1980 (45 FR 70000), to approve, consist of alternate compliance schedules for the General Motors automotive assembly plants in Atlanta and Doraville, and the Ford Motor Company assembly plant in Hapeville. These compliance schedules are included as part of the plants' operating permits.

The issuance of the permits by the State represents implementation of Georgia's volatile organic compound (VOC) regulations which EPA approved on September 18, 1979 (44 FR 54047). The regulations are included as a part of Georgia's control strategy to attain the ozone standard in the metropolitan Atlanta area by December 31, 1982.

**EFFECTIVE DATE:** This action is effective June 22, 1981.

**ADDRESSES:** Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.  
20460;

Library, Environmental Protection  
Agency, Region IV, 345 Courtland  
Street, NE., Atlanta, Georgia 30365;  
Office of the Federal Register, Room  
8401, 1100 L Street, NW., Washington,  
DC 20005;

Air Protection Branch, Environmental  
Protection Division, Georgia  
Department of Natural Resources, 270  
Washington Street, SW., Atlanta,  
Georgia 30334.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Barry Gilbert, Air Programs Branch,  
EPA Region IV at the above address,  
telephone 404/881-3286 or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** The  
Georgia Environmental Protection  
Division submitted to EPA State  
Implementation Plan (SIP) revisions  
consisting of operating permits for the  
General Motors automotive assembly  
plants in Atlanta and Doraville, and the  
Ford Motor Company assembly plant in  
Hapeville. The permits include alternate  
compliance schedules for these three  
VOC sources.

The issuance of the permits with  
compliance schedules is necessary in  
order for the State to implement its VOC  
regulations and ensure reasonable  
further progress toward attaining the  
National Ambient Air Quality Standard  
(NAAQS) for ozone, as stated in  
Georgia's 1979 nonattainment SIP  
submittal, and approved by EPA at 44  
FR 54047, September 18, 1979.

The permits require the sources to  
meet the conditions of the compliance

schedules as described in the Federal  
Register proposal notice of October 22,  
1980 (45 FR 70000) concerning prime  
operations, topcoat and final repair  
operations, and testing requirements  
and equivalency. On April 14, 1980  
permits to operate were issued to the  
following plants:

The Ford Motor Company's Atlanta  
Assembly Plant, located at 340 S.  
Central Avenue, Hapeville, Georgia  
(Permit No. 3711-060-7453-0).

General Motors Corporation's Atlanta  
Assembly plant located at 3900 Motors  
Industrial Way, Doraville, Georgia  
(Permit No. 3711-044-7449-0).

General Motors Corporation's Atlanta  
Assembly Plant located at McDonough  
Boulevard and Sawtell Avenue, Atlanta,  
Georgia (Permit No. 3711-060-7451-0).

On October 22, 1980, EPA solicited  
comments on the proposed rule. No  
comments were received nor has further  
information become available which  
would modify EPA's proposal to  
approve the alternate compliance  
schedules.

Approval and subsequent  
implementation of these SIP revisions  
will result in an overall improvement of  
air quality in the Atlanta area.

#### Action

Accordingly, EPA is today approving  
the permits. This action is effective June  
22, 1981.

Under Section 307(b)(1) of the Clean  
Air Act, judicial review of EPA's  
approval of these alternate VOC  
compliance schedules is available only  
by the filing of a petition for review in  
the United States Court of Appeals for  
the appropriate circuit on or before July  
21, 1981. Under Section 307(b)(2) of the  
Clean Air Act, the requirements which  
are the subject of today's notice may not  
be challenged later in civil or criminal  
proceedings brought by EPA to enforce  
these requirements.

Under Executive Order 12291, EPA  
must judge whether a regulation is major  
and therefore subject to the requirement  
of a Regulatory Impact Analysis. This  
regulation is not major because it only  
approves State actions and imposes no  
new requirement on sources.

This regulation was submitted to the  
Office of Management and Budget  
(OMB) for review as required by  
Executive Order 12291.

Incorporation by reference of the  
State Implementation Plan for the State  
of Georgia was approved by the Director  
of the Federal Register on July 1, 1980.

(Secs. 110 and 172 of the Clean Air Act (42  
U.S.C. 7410 and 7502))

Dated: May 15, 1981.

Walter C. Barber,  
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of  
Federal Regulations, is amended as  
follows:

#### Subpart L—Georgia

1. § 52.570 is amended by adding  
paragraph (c) (20) as follows:

#### § 52.570 Identification of plan.

\* \* \* \* \*

(c) The plan revisions listed below  
were submitted on the dates specified.

\* \* \* \* \*

(20) Alternate VOC compliance  
schedules for Ford and General Motors  
plants in the Atlanta area, submitted on  
April 14, 1980 by the Georgia  
Department of Natural Resources.

[FR Doc. 81-15417 Filed 5-21-81; 8:45 am]

BILLING CODE 6560-38-M

#### 40 CFR Part 52

[A-7-FRL 1823-7]

#### Approval and Promulgation of State Implementation Plans: State of Missouri

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Final rulemaking.

**SUMMARY:** The EPA proposed in the  
January 22, 1981 Federal Register (46 FR  
7007) to approve a revision to the  
Missouri State Implementation Plan  
(SIP) involving start-up, shutdown, and  
malfunction conditions. This notice  
describes the EPA's final action on this  
SIP revision.

No comments have been received in  
response to the January 22, 1981 notice  
of proposed rulemaking.

**DATES:** This approval is effective on or  
before June 22, 1981.

**ADDRESSES:** Copies of the State  
submission and the EPA prepared  
rationale document are available at the  
following locations:

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street SW., Washington, D.C.  
20460;

Missouri Department of Natural  
Resources, 2010 Missouri Boulevard,  
Jefferson City, Missouri 65101.

**FOR FURTHER INFORMATION CONTACT:**  
Mary C. Carter at (816) 374-3791 (FTS  
758-3791).

**SUPPLEMENTARY INFORMATION:** On  
September 5, 1980, the State of Missouri

submitted Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, as a SIP revision. Included with the new rule were revisions to Rule 10 CSR 10-6.020 Definitions and to the start-up, shutdown and malfunction provisions for existing regulations in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050. These latter provisions generally allowed automatic exemptions from emission limitations during periods of excess emissions due to start-up, shutdown or malfunction conditions. The new rule is more restrictive in that the source must demonstrate that the excess emissions, although constituting a violation, were due to an unavoidable malfunction. The State will determine at its discretion whether additional enforcement action is warranted based upon data submitted by the owner or operator of a source showing that the excess emissions were the consequence of a malfunction, start-up, or shutdown.

The EPA proposed approval of the new rule and the rule revisions in the January 22, 1981 Federal Register at 46 FR 7007. The reader is referred to this publication and EPA's rationale for approval, for further discussion of the SIP revision.

The State has adopted a regulation which EPA believes is consistent with its policy regarding malfunctions, start-ups, and shutdowns. The rule provides that malfunctions are not automatically exempt nor is the routine phasing in and out of process equipment exempt from enforcement action. However, upon receipt of a notice of excess emissions, the source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown. Based upon this information, the state will determine whether additional enforcement action is warranted.

No comments were received in response to the January 22, 1981 notice of proposed rulemaking.

#### Action:

The EPA approves Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, and the revisions to Rules 10 CSR 10-6.020, 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-1.030, 10-4.040 and 10-5.050 as a revision to the State Implementation Plan.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no

additional substantive requirements which are not currently applicable under State law.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This action only approves State actions and imposes no additional substantive requirements. Moreover, due to the nature of the Federal-State relationship, Federal inquiry into the economic reasonableness of the State's action would serve no practical purpose and could well be improper.

Dated: May 15, 1981.

Walter C. Barber,  
Acting Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1980.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### Subpart AA—Missouri

1. Section 52.1320 is amended by adding paragraph (c)(27) as follows:

#### § 52.1320 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified:

(27) On September 5, 1980, the State of Missouri submitted a plan revision which involves provisions for start-up, shutdown, and malfunction conditions. Included in the plan are new Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions and revisions to Rule 10 CSR 10-6.020 Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-4.050. This plan revision is approved as being consistent with EPA policy regarding start-ups, shutdowns, and malfunctions.

[FR Doc. 81-15456 Filed 5-21-81; 8:45 am]

BILLING CODE 6560-38-M

#### 40 CFR Part 81

[A-4-FRL 1820-3]

#### Designation of Areas for Air Quality Planning Purposes; North Carolina: Redesignation of Spruce Pine; Redefinition of SO<sub>2</sub> and TSP Attainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** On the basis of eight consecutive quarters of air quality data showing no violation of any national standard for particulate matter, EPA is changing the attainment status designation of the Spruce Pine area to attainment. Also, EPA is changing the description of sulfur oxide and particulate matter attainment areas so that every county in the State is identified by name. These actions were proposed for public comment on October 27, 1980 (45 FR 70917 and 70918), but no comments were received.

**EFFECTIVE DATE:** These actions are effective June 22, 1981.

**ADDRESSES:** Copies of the materials submitted by North Carolina in support of the redesignation may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street, S.W., Washington, D.C.  
20460;  
Library, EPA Region IV, 345 Courtland  
Street, N.E., Atlanta, Georgia 30365.

**FOR FURTHER INFORMATION CONTACT:**  
Walter Bishop of the EPA Region IV, Air  
Programs Branch, 404/881-3043 (FTS  
257-3043).

**SUPPLEMENTARY INFORMATION:** On March 3, 1978 (43 FR 8962 at 9019), the Administrator designated portions of Avery, Mitchell and Yancey Counties, North Carolina, in and around Spruce Pine as nonattainment for particulate matter. On August 20, 1979 (44 FR 48679), the Administrator changed the designation for the primary particulate standards from nonattainment to unclassifiable, leaving the designation for the secondary standard as nonattainment. On September 3, 1980, the State submitted information showing that no ambient particulate standard had been violated in the area during the period April 1978 through March 1980, and requested that the designation for Spruce Pine be revised to attainment. EPA's review of the data submittal



for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (46 FR 8709). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves an action by the Commonwealth of Puerto Rico. It imposes no new requirements.

#### List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601) [HETA]—Ed. TBA4)

Dated: September 21, 1984

William D. Ruckelshaus,  
Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Puerto Rico was approved by the Director of the Federal Register on July 1, 1982.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

##### Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by adding new paragraph (c)(31) as follows:

§ 52.2720 Identification of plan.

(c)

(31) Revision submitted on May 30, 1984 by the Commonwealth of Puerto Rico's Environmental Quality Board which establishes fuel oil sulfur content limitations (known as "sulfur assignments") applicable to the Bristol Alpha Corporation.

[FR Doc. 84-25648 Filed 9-28-84; 8:45 am]  
BILLING CODE 6560-50-M

#### 40 CFR Part 52

[EPA Action MO 1586; A-7-FRL-2682-5]

#### Approval and Promulgation of the Missouri State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

**SUMMARY:** The Missouri Department of Natural Resources submitted their Air Quality Monitoring Plan and requested that it be approved as part of the Missouri State Implementation Plan (SIP) in a letter dated June 6, 1984. The monitoring plan describes the methods used to measure levels of air pollution and reporting procedures for their air quality surveillance network. EPA has determined that the Missouri Air Quality Monitoring Plan meets all of EPA's requirements.

At this time, EPA is publishing a correction and clarification of a notice published on May 22, 1981 (46 FR 27933), pertaining to the Missouri SIP. The section of the notice that amends Title 40 of the Code of Federal Regulations 52.1320(C)(27) was in error. The sentence, "Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-4.050," should read as "Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050."

**EFFECTIVE DATE:** This action will be effective November 26, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** A copy of the State's submission is available for review at the following addresses:

Environmental Protection Agency,  
Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106  
Missouri Department of Natural Resources, 1101 Rear Southwest Blvd., Jefferson City, Missouri 65102  
Environmental Protection Agency,  
Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460  
Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

Written comments should be sent to: Jane C. Johnson, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Jane C. Johnson at the above address or call (816) 374-3791. (FTS) 758-3791.

**SUPPLEMENTARY INFORMATION:** Federal regulations concerning ambient air quality surveillance require states to submit plans providing for the establishment and operation of ambient air monitors. The Missouri Air Quality Monitoring Plan provides for a

monitoring network that uses acceptable monitoring methods, provides for quality assurance, and provides for location of monitors according to EPA siting criteria. The Plan specifies the monitoring stations to be operated during emergency air pollution episodes, provides for annual review of the system, and provides for availability of the network description and procedures upon request. The Missouri Air Quality Monitoring Plan satisfies the requirements of 40 CFR 53.20, Air Quality Surveillance: Plan Content.

#### Action

EPA approves this submission as a revision to the Missouri SIP. EPA believes this action is noncontroversial and is approving it without prior proposal. The public is advised that this action is effective November 26, 1984 unless we receive written notice within 30 days from the date of publication that someone wishes to submit adverse or critical comments. In such case, this action will be withdrawn and rulemaking will commence again by announcing a proposal of this action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Office of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, August 1977 (42 U.S.C. 410).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.



Dated: September 21, 1984.

William D. Ruckelshaus,  
Administrator.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart AA—Missouri

1. Section 52.1320 is amended by revising paragraph (c)(27) and adding a new paragraph (c)(46) as follows:

#### § 52.1320 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(27) Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050.

(46) On June 6, 1984, the Missouri Department of Natural Resources submitted the Air Quality Monitoring State Implementation Plan.

[FR Doc. 84-25648 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 52

[Docket No. A-1-FRL 2682-6]

### Approval and Promulgation of Implementation Plans; New Hampshire; Berlin TSP Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. These revisions will reduce Total Suspended Particulate (TSP) emissions from an unpaved roadway and adjacent areas. The intended effect of this action is to attain the primary TSP National Ambient Air Quality Standards (NAAQS) as required under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This action will be effective October 29, 1984.

**ADDRESSES:** Copies of the submittal are available for public inspection at the Air Management Division, Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L

Street NW., Room 8401, Washington, D.C. 20408; and the Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

**FOR FURTHER INFORMATION CONTACT:** Susan Hager at (617) 223-4873.

**SUPPLEMENTARY INFORMATION:** On April 27, 1984 (49 FR 18128), EPA published a Notice of Proposed Rulemaking (NPR) for the Berlin, New Hampshire TSP Attainment Plan.

The proposed attainment plan demonstrated a 66% reduction in TSP emissions which is 12% greater than the State calculated as necessary to attain standards. Based on that demonstration, EPA proposed approval with the understanding that the State include with the final submittal a copy of its administrative order issued to the James River Corporation. The order makes enforceable those measures described in the plan which will be used to achieve the emissions reduction.

On May 9, 1984, New Hampshire submitted a final TSP Attainment Plan for Berlin which includes the administrative order to the James River Corporation. The order, dated May 2, 1984, requires James River to:

1. Pave .55 miles of unpaved roadway in its woodyard and seed bare areas of the woodyard by August 31, 1984.
2. Conduct investigations and submit reports on any elevated TSP concentrations occurring during the period September 1, 1984 through August 31, 1985. If exceedences of the primary TSP standards are recorded during the period, the program will be extended until standards are attained. The Air Resources Agency, after analysis, may require the James River Corporation to pave an additional .1 mile of roadway.
3. Maintain the paved and unpaved roadways and seeded areas in accordance with procedures accepted by the Air Resources Agency.

As discussed in the NPR, EPA has reviewed the New Hampshire submittal and finds it acceptable.

#### Final Action

EPA is approving the final TSP Plan to attain primary standards in Berlin, New Hampshire and the administrative order issued May 2, 1984 to the James River Corporation which were submitted by the State on May 9, 1984.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This

action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Incorporation by reference.

**Authority:** Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

**Note.**—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 21, 1984.  
William D. Ruckelshaus,  
Administrator.

## PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is revised by adding subparagraph (33) as follows:

#### § 52.1520 Identification of plan.

(c) (33) The TSP plan to attain primary standards in Berlin, New Hampshire and the administrative order issued May 2, 1984 to the James River Corporation which were submitted by the Air Resources Agency on May 9, 1984.

[FR Doc. 84-25649 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 60

[A-9-FRL-2682-2]

### Delegation of New Source Performance Standards (NSPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

**SUMMARY:** The EPA hereby places the public on notice of its delegation of NSPS authority to the California Air Resources Board (CARB) on behalf of the Bay Area Air Quality Management District (BAAQMD). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create

for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (46 FR 8709). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves an action by the Commonwealth of Puerto Rico. It imposes no new requirements.

#### List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Dated: September 21, 1984

William D. Ruckelshaus,  
Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Puerto Rico was approved by the Director of the Federal Register on July 1, 1982.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

##### Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by adding new paragraph (c)(31) as follows:

§ 52.2720 Identification of plan.

(c) \* \* \*

(31) Revision submitted on May 30, 1984 by the Commonwealth of Puerto Rico's Environmental Quality Board which establishes fuel oil sulfur content limitations (known as "sulfur assignments") applicable to the Bristol Alpha Corporation.

[FR Doc. 84-25646 Filed 9-28-84; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 52

[EPA Action MO 1586; A-7-FRL-2682-5]

#### Approval and Promulgation of the Missouri State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

**SUMMARY:** The Missouri Department of Natural Resources submitted their Air Quality Monitoring Plan and requested that it be approved as part of the Missouri State Implementation Plan (SIP) in a letter dated June 6, 1984. The monitoring plan describes the methods used to measure levels of air pollution and reporting procedures for their air quality surveillance network. EPA has determined that the Missouri Air Quality Monitoring Plan meets all of EPA's requirements.

At this time, EPA is publishing a correction and clarification of a notice published on May 22, 1981 (46 FR 27933), pertaining to the Missouri SIP. The section of the notice that amends Title 40 of the Code of Federal Regulations 52.1320(C)(27) was in error. The sentence, "Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-4.050," should read as "Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050."

**EFFECTIVE DATE:** This action will be effective November 26, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** A copy of the State's submission is available for review at the following addresses:

Environmental Protection Agency,

Region VII, Air Branch, 324 East 11th

Street, Kansas City, Missouri 64106

Missouri Department of Natural Resources, 1101 Rear Southwest Blvd., Jefferson City, Missouri 65102

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

Written comments should be sent to: Jane C. Johnson, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

#### FOR FURTHER INFORMATION CONTACT:

Jane C. Johnson at the above address or call (816) 374-3791. (FTS) 758-3791.

**SUPPLEMENTARY INFORMATION:** Federal regulations concerning ambient air quality surveillance require states to submit plans providing for the establishment and operation of ambient air monitors. The Missouri Air Quality Monitoring Plan provides for a

monitoring network that uses acceptable monitoring methods, provides for quality assurance, and provides for location of monitors according to EPA siting criteria. The Plan specifies the monitoring stations to be operated during emergency air pollution episodes, provides for annual review of the system, and provides for availability of the network description and procedures upon request. The Missouri Air Quality Monitoring Plan satisfies the requirements of 40 CFR 58.20, Air Quality Surveillance: Plan Content.

#### Action

EPA approves this submission as a revision to the Missouri SIP. EPA believes this action is noncontroversial and is approving it without prior proposal. The public is advised that this action is effective November 26, 1984 unless we receive written notice within 30 days from the date of publication that someone wishes to submit adverse or critical comments. In such case, this action will be withdrawn and rulemaking will commence again by announcing a proposal of this action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Office of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, August 1977 (42 U.S.C. 410).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.



Dated: September 21, 1984.

William D. Ruckelshaus,  
Administrator.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart AA—Missouri

1. Section 52.1320 is amended by revising paragraph (c)(27) and adding a new paragraph (c)(46) as follows:

#### § 52.1320 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(27) Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050.

(46) On June 6, 1984, the Missouri Department of Natural Resources submitted the Air Quality Monitoring State Implementation Plan.

[FR Doc. 84-25648 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 52

[Docket No. A-1-FRL 2682-6]

## Approval and Promulgation of Implementation Plans; New Hampshire; Berlin TSP Attainment Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. These revisions will reduce Total Suspended Particulate (TSP) emissions from an unpaved roadway and adjacent areas. The intended effect of this action is to attain the primary TSP National Ambient Air Quality Standards (NAAQS) as required under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This action will be effective October 29, 1984.

**ADDRESSES:** Copies of the submittal are available for public inspection at the Air Management Division, Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L

Street NW., Room 8401, Washington, D.C. 20408; and the Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

### FOR FURTHER INFORMATION CONTACT:

Susan Hager at (617) 223-4873.

**SUPPLEMENTARY INFORMATION:** On April 27, 1984 (49 FR 18128), EPA published a Notice of Proposed Rulemaking (NPR) for the Berlin, New Hampshire TSP Attainment Plan.

The proposed attainment plan demonstrated a 66% reduction in TSP emissions which is 12% greater than the State calculated as necessary to attain standards. Based on that demonstration, EPA proposed approval with the understanding that the State include with the final submittal a copy of its administrative order issued to the James River Corporation. The order makes enforceable those measures described in the plan which will be used to achieve the emissions reduction.

On May 9, 1984, New Hampshire submitted a final TSP Attainment Plan for Berlin which includes the administrative order to the James River Corporation. The order, dated May 2, 1984, requires James River to:

1. Pave .55 miles of unpaved roadway in its woodyard and seed bare areas of the woodyard by August 31, 1984.

2. Conduct investigations and submit reports on any elevated TSP concentrations occurring during the period September 1, 1984 through August 31, 1985. If exceedences of the primary TSP standards are recorded during the period, the program will be extended until standards are attained. The Air Resources Agency, after analysis, may require the James River Corporation to pave an additional .1 mile of roadway.

3. Maintain the paved and unpaved roadways and seeded areas in accordance with procedures accepted by the Air Resources Agency.

As discussed in the NPR, EPA has reviewed the New Hampshire submittal and finds it acceptable.

### Final Action

EPA is approving the final TSP Plan to attain primary standards in Berlin, New Hampshire and the administrative order issued May 2, 1984 to the James River Corporation which were submitted by the State on May 9, 1984.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This

action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Incorporation by reference.

**Authority:** Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

**Note.**—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 21, 1984.  
William D. Ruckelshaus,  
Administrator.

## PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is revised by adding subparagraph (33) as follows:

#### § 52.1520 Identification of plan.

(c) \* \* \*

(33) The TSP plan to attain primary standards in Berlin, New Hampshire and the administrative order issued May 2, 1984 to the James River Corporation which were submitted by the Air Resources Agency on May 9, 1984.

[FR Doc. 84-25649 Filed 9-26-84; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 60

[A-9-FRL-2682-2]

## Delegation of New Source Performance Standards (NSPS); State of California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Delegation of authority.

**SUMMARY:** The EPA hereby places the public on notice of its delegation of NSPS authority to the California Air Resources Board (CARB) on behalf of the Bay Area Air Quality Management District (BAAQMD). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create

these revisions, that EPA proposed on October 22, 1980 (45 FR 70000), to approve, consist of alternate compliance schedules for the General Motors automotive assembly plants in Atlanta and Doraville, and the Ford Motor Company assembly plant in Hapeville. These compliance schedules are included as part of the plants' operating permits.

The issuance of the permits by the State represents implementation of Georgia's volatile organic compound (VOC) regulations which EPA approved on September 18, 1979 (44 FR 54047). The regulations are included as a part of Georgia's control strategy to attain the ozone standard in the metropolitan Atlanta area by December 31, 1982.

**EFFECTIVE DATE:** This action is effective June 22, 1981.

**ADDRESSES:** Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.  
20460;

Library, Environmental Protection  
Agency, Region IV, 345 Courtland  
Street, NE., Atlanta, Georgia 30365;  
Office of the Federal Register, Room  
8401, 1100 L Street, NW., Washington,  
DC 20005;

Air Protection Branch, Environmental  
Protection Division, Georgia  
Department of Natural Resources, 270  
Washington Street, SW., Atlanta,  
Georgia 30334.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Barry Gilbert, Air Programs Branch,  
EPA Region IV at the above address,  
telephone 404/881-3286 or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** The  
Georgia Environmental Protection  
Division submitted to EPA State  
Implementation Plan (SIP) revisions  
consisting of operating permits for the  
General Motors automotive assembly  
plants in Atlanta and Doraville, and the  
Ford Motor Company assembly plant in  
Hapeville. The permits include alternate  
compliance schedules for these three  
VOC sources.

The issuance of the permits with  
compliance schedules is necessary in  
order for the State to implement its VOC  
regulations and ensure reasonable  
further progress toward attaining the  
National Ambient Air Quality Standard  
(NAAQS) for ozone, as stated in  
Georgia's 1979 nonattainment SIP  
submittal, and approved by EPA at 44  
FR 54047, September 18, 1979.

The permits require the sources to  
meet the conditions of the compliance

schedules as described in the Federal  
Register proposal notice of October 22,  
1980 (45 FR 70000) concerning prime  
operations, topcoat and final repair  
operations, and testing requirements  
and equivalency. On April 14, 1980  
permits to operate were issued to the  
following plants:

The Ford Motor Company's Atlanta  
Assembly Plant, located at 340 S.  
Central Avenue, Hapeville, Georgia  
(Permit No. 3711-060-7453-0).

General Motors Corporation's Atlanta  
Assembly plant located at 3900 Motors  
Industrial Way, Doraville, Georgia  
(Permit No. 3711-044-7449-0).

General Motors Corporation's Atlanta  
Assembly Plant located at McDonough  
Boulevard and Sawtell Avenue, Atlanta,  
Georgia (Permit No. 3711-060-7451-0).

On October 22, 1980, EPA solicited  
comments on the proposed rule. No  
comments were received nor has further  
information become available which  
would modify EPA's proposal to  
approve the alternate compliance  
schedules.

Approval and subsequent  
implementation of these SIP revisions  
will result in an overall improvement of  
air quality in the Atlanta area.

#### Action

Accordingly, EPA is today approving  
the permits. This action is effective June  
22, 1981.

Under Section 307(b)(1) of the Clean  
Air Act, judicial review of EPA's  
approval of these alternate VOC  
compliance schedules is available only  
by the filing of a petition for review in  
the United States Court of Appeals for  
the appropriate circuit on or before July  
21, 1981. Under Section 307(b)(2) of the  
Clean Air Act, the requirements which  
are the subject of today's notice may not  
be challenged later in civil or criminal  
proceedings brought by EPA to enforce  
these requirements.

Under Executive Order 12291, EPA  
must judge whether a regulation is major  
and therefore subject to the requirement  
of a Regulatory Impact Analysis. This  
regulation is not major because it only  
approves State actions and imposes no  
new requirement on sources.

This regulation was submitted to the  
Office of Management and Budget  
(OMB) for review as required by  
Executive Order 12291.

Incorporation by reference of the  
State Implementation Plan for the State  
of Georgia was approved by the Director  
of the Federal Register on July 1, 1980.

(Secs. 110 and 172 of the Clean Air Act (42  
U.S.C. 7410 and 7502))

Dated: May 15, 1981.

Walter C. Barber,  
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of  
Federal Regulations, is amended as  
follows:

#### Subpart L—Georgia

1. § 52.570 is amended by adding  
paragraph (c) (20) as follows:

#### § 52.570 Identification of plan.

\* \* \* \* \*

(c) The plan revisions listed below  
were submitted on the dates specified.  
\* \* \* \* \*

(20) Alternate VOC compliance  
schedules for Ford and General Motors  
plants in the Atlanta area, submitted on  
April 14, 1980 by the Georgia  
Department of Natural Resources.

[FR Doc. 81-15417 Filed 5-21-81; 8:45 am]

BILLING CODE 6560-38-M

#### 40 CFR Part 52

[A-7-FRL 1823-7]

#### Approval and Promulgation of State Implementation Plans: State of Missouri

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Final rulemaking.

**SUMMARY:** The EPA proposed in the  
January 22, 1981 Federal Register (46 FR  
7007) to approve a revision to the  
Missouri State Implementation Plan  
(SIP) involving start-up, shutdown, and  
malfunction conditions. This notice  
describes the EPA's final action on this  
SIP revision.

No comments have been received in  
response to the January 22, 1981 notice  
of proposed rulemaking.

**DATES:** This approval is effective on or  
before June 22, 1981.

**ADDRESSES:** Copies of the State  
submission and the EPA prepared  
rationale document are available at the  
following locations:

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street SW., Washington, D.C.  
20460;

Missouri Department of Natural  
Resources, 2010 Missouri Boulevard,  
Jefferson City, Missouri 65101.

**FOR FURTHER INFORMATION CONTACT:**  
Mary C. Carter at (816) 374-3791 (FTS  
758-3791).

**SUPPLEMENTARY INFORMATION:** On  
September 5, 1980, the State of Missouri



submitted Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, as a SIP revision. Included with the new rule were revisions to Rule 10 CSR 10-6.020 Definitions and to the start-up, shutdown and malfunction provisions for existing regulations in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050. These latter provisions generally allowed automatic exemptions from emission limitations during periods of excess emissions due to start-up, shutdown or malfunction conditions. The new rule is more restrictive in that the source must demonstrate that the excess emissions, although constituting a violation, were due to an unavoidable malfunction. The State will determine at its discretion whether additional enforcement action is warranted based upon data submitted by the owner or operator of a source showing that the excess emissions were the consequence of a malfunction, start-up, or shutdown.

The EPA proposed approval of the new rule and the rule revisions in the January 22, 1981 Federal Register at 46 FR 7007. The reader is referred to this publication and EPA's rationale for approval, for further discussion of the SIP revision.

The State has adopted a regulation which EPA believes is consistent with its policy regarding malfunctions, start-ups, and shutdowns. The rule provides that malfunctions are not automatically exempt nor is the routine phasing in and out of process equipment exempt from enforcement action. However, upon receipt of a notice of excess emissions, the source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown. Based upon this information, the state will determine whether additional enforcement action is warranted.

No comments were received in response to the January 22, 1981 notice of proposed rulemaking.

#### Action:

The EPA approves Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, and the revisions to Rules 10 CSR 10-6.020, 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-1.030, 10-4.040 and 10-5.050 as a revision to the State Implementation Plan.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no

additional substantive requirements which are not currently applicable under State law.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This action only approves State actions and imposes no additional substantive requirements. Moreover, due to the nature of the Federal-State relationship, Federal inquiry into the economic reasonableness of the State's action would serve no practical purpose and could well be improper.

Dated: May 15, 1981.

Walter C. Barber,  
Acting Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1980.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### Subpart AA—Missouri

1. Section 52.1320 is amended by adding paragraph (c)(27) as follows:

#### § 52.1320 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified:

(27) On September 5, 1980, the State of Missouri submitted a plan revision which involves provisions for start-up, shutdown, and malfunction conditions. Included in the plan are new Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions and revisions to Rule 10 CSR 10-6.020 Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-4.050. This plan revision is approved as being consistent with EPA policy regarding start-ups, shutdowns, and malfunctions.

[FR Doc. 81-15456 Filed 5-21-81; 8:45 am]

BILLING CODE 6560-38-M

#### 40 CFR Part 81

[A-4-FRL 1820-3]

#### Designation of Areas for Air Quality Planning Purposes; North Carolina: Redesignation of Spruce Pine; Redefinition of SO<sub>2</sub> and TSP Attainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** On the basis of eight consecutive quarters of air quality data showing no violation of any national standard for particulate matter, EPA is changing the attainment status designation of the Spruce Pine area to attainment. Also, EPA is changing the description of sulfur oxide and particulate matter attainment areas so that every county in the State is identified by name. These actions were proposed for public comment on October 27, 1980 (45 FR 70917 and 70918), but no comments were received.

**EFFECTIVE DATE:** These actions are effective June 22, 1981.

**ADDRESSES:** Copies of the materials submitted by North Carolina in support of the redesignation may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street, S.W., Washington, D.C.  
20460;

Library, EPA Region IV, 345 Courtland  
Street, N.E., Atlanta, Georgia 30365.

**FOR FURTHER INFORMATION CONTACT:**  
Walter Bishop of the EPA Region IV, Air  
Programs Branch, 404/881-3043 (FTS  
257-3043).

**SUPPLEMENTARY INFORMATION:** On March 3, 1978 (43 FR 8962 at 9019), the Administrator designated portions of Avery, Mitchell and Yancey Counties, North Carolina, in and around Spruce Pine as nonattainment for particulate matter. On August 20, 1979 (44 FR 48679), the Administrator changed the designation for the primary particulate standards from nonattainment to unclassifiable, leaving the designation for the secondary standard as nonattainment. On September 3, 1980, the State submitted information showing that no ambient particulate standard had been violated in the area during the period April 1978 through March 1980, and requested that the designation for Spruce Pine be revised to attainment. EPA's review of the data submittal

ENVIRONMENTAL PROTECTION AGENCY

REGION VII

AIR PLANNING & DEVELOPMENT

FILE: MO-18 Final Rulemaking

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

APR 13 1981

## Missouri Revision to the State Implementation Plan (SIP) - SPECIAL ACTION

William W. Rice  
Acting Regional Administrator, Region VII

Acting Administrator

THRU: Brenda Greene  
Office of Regional Liaison (A-101)

Enclosed for your signature is a notice of final rulemaking for publication in the FEDERAL REGISTER. This notice advises the public that EPA is approving changes to the Missouri State Implementation Plan (SIP) involving startup, shutdown and malfunction conditions. Notice of the EPA's proposed approval of these changes to the Missouri SIP was published in the FEDERAL REGISTER on January 22, 1981 (46 FR 7007) and public comment was invited. No public comments have been received in response to the proposal.

This rulemaking is being submitted as a special action in accordance with the memorandum of August 18, 1977, from Richard G. Rhoads, Director, Control Programs Development Division.

The enclosures include an original and fourteen copies of the final rulemaking document (two copies certified to be true copies of the original), and one copy of this memo. Five copies of the rationale document were sent to the Office of Regional Liaison at the time of proposed rulemaking. Since there were no new issues raised during the comment period, the rationale document for approval of this SIP submission has not changed.

We request that the FEDERAL REGISTER staff supply the appropriate date on the first page of the notice.

If there are any questions, please contact Mary C. Carter at FTS 758-3791.

Enclosures

cc: Public Information Reference Unit (PM-213)  
Control Programs Development Division (MD-15)  
Office of General Counsel (A-130)  
Division of Standards and Regulations (PM-223)  
Division of Stationary Source Enforcement (EN-341)

MCCarter:dfp:ARHM-ANRB:3-24-81x3791

Job 32

## CONCURRENCES

SYMBOL	CARTER	APDS	ANRB	CNSL	ARHM	RGAD	
SURNAME	MCC	<i>[Signature]</i>	WRIGHT	Patrick	WAGNER	Is/Rice	mailed 4-14-81
DATE	4/7/81	4/8/81	4/8/81	4/10/81	4/10/81	4/13/81	<i>[Signature]</i>

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: April 7, 1981

SUBJECT: Missouri SIP Revision (Malfunction Conditions)

FROM: Director, Air and Hazardous Materials Division

TO: William W. Rice  
Acting Regional Administrator

Attached for the Acting Administrator's signature is a notice of final rulemaking for publication in the FEDERAL REGISTER. Also attached is an action memorandum to the Administrator recommending that the notice of final rulemaking be signed. This notice advises the public that EPA is approving a revision to the State Implementation Plan (SIP) involving start-up, shutdown and malfunction conditions.

This action has been determined to be important to the EPA's overall management of the State's air quality programs. As such it is classified as a priority two notice (reference memo of March 12, 1981 from Gale A. Wright, Acting Chief, Air, Noise and Radiation Branch to Thomas L. Budd, Resources Management Branch). Failure by EPA to take timely action on this matter could adversely affect our relationship with the State and would delay Federal enforceability of the State's regulations involving start-up, shutdown and malfunction conditions.

BACKGROUND


Previous Missouri regulations provided that sources were automatically exempt from enforcement actions if excess emissions were the result of start-up, shutdown or malfunction conditions. EPA's policy is that such exemptions should not be automatic. A case-by-case determination should be made as to whether the excess emissions were due to sudden and unforeseeable conditions.

In order to comply with EPA's policy, the State adopted revisions to its SIP on September 19, 1979. The revisions were submitted to EPA on September 5, 1980. The new rule appears to comply with EPA's guidance on start-up, shutdown and malfunction conditions. This SIP was proposed for approval in the January 22, 1981 FEDERAL REGISTER and public comment was invited. No public comments have been received in response to the proposal.



RECOMMENDATION

I recommend that you sign the attached action memorandum to the Administrator recommending his approval of this notice and that this notice be exempted from the Regional Office freeze on FEDERAL REGISTER publication costs.

  
David A. Wagoner  
Director, Air and Hazardous Materials Division

Attachments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of State Implementation Plans:

State of Missouri

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Final Rulemaking

SUMMARY: The EPA proposed in the January 22, 1981 FEDERAL REGISTER (46 FR 7007) to approve a revision to the Missouri State Implementation Plan (SIP) involving start-up, shutdown, and malfunction conditions. This notice describes the EPA's final action on this SIP revision.

No comments have been received in response to the January 22, 1981 notice of proposed rulemaking.

DATES: This approval is effective (insert date thirty days after publication in the FEDERAL REGISTER).

ADDRESSES: Copies of the State submission and the EPA prepared rationale document are available at the following locations:

Public Information Reference Unit  
Environmental Protection Agency  
401 M Street, S. W.  
Washington, D. C. 20460

Missouri Department of Natural Resources  
2010 Missouri Boulevard  
Jefferson City, Missouri 65101

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION: On September 5, 1980, the State of Missouri submitted Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, as a SIP revision. Included with the new rule were revisions



to Rule 10 CSR 10-6.020 Definitions and to the start-up, shutdown and malfunction provisions for existing regulations in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050. These latter provisions generally allowed automatic exemptions from emission limitations during periods of excess emissions due to start-up, shutdown or malfunction conditions. The new rule is more restrictive in that the source must demonstrate that the excess emissions, although constituting a violation, were due to an unavoidable malfunction. The State will determine at its discretion whether additional enforcement action is warranted based upon data submitted by the owner or operator of a source showing that the excess emissions were the consequence of a malfunction, start-up, or shutdown.

The EPA proposed approval of the new rule and the rule revisions in the January 22, 1981 FEDERAL REGISTER at 46 FR 7007. The reader is referred to this publication and EPA's rationale for approval, for further discussion of the SIP revision.

The State has adopted a regulation which EPA believes is consistent with its policy regarding malfunctions, start-ups, and shutdowns. The rule provides that malfunctions are not automatically exempt nor is the routine phasing in and out of process equipment exempt from enforcement action. However, upon receipt of a notice of excess emissions, the source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown. Based upon this information, the state will determine whether additional enforcement action is warranted.

No comments were received in response to the January 22, 1981 notice of proposed rulemaking.

ACTION: The EPA approves Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, and the revisions to Rules 10 CSR 10-6.020, 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050 as a revision to the State Implementation Plan.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of \$100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and EPA response to those comments are available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Pursuant to the provisions of 5 U.S.C. §605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This action only approves State actions and imposes no additional substantive requirements. Moreover, due to

the nature of the Federal-State relationship, Federal inquiry into the economic reasonableness of the State's action would serve no practical purpose and could well be improper.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Acting Administrator

NOTE - Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1980.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA - Missouri

1. Section 52.1320 is amended by adding paragraph (c)(27) as follows:

§ 52.1320 Identification of Plan

\* \* \* \* \*

(c) The plan revisions listed below were submitted on the dates specified:

\* \* \* \* \*

(27) On September 5, 1980, the State of Missouri submitted a plan revision which involves provisions for start-up, shutdown, and malfunction conditions. Included in the plan are new Missouri Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions and revisions to Rule 10 CSR 10-6.020 Definitions and amended start-up, shutdown and malfunction provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050. This plan revision is approved as being consistent with EPA policy regarding start-ups, shutdowns, and malfunctions.

will repropose the revision and open another public comment period.

The Administrator's final decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendment meets the requirements of Section 110(a)(2) and 172 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. It imposes no new requirements. In fact, this action, if promulgated would remove several regulatory requirements.

**Note.**—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-642)

Dated: January 2, 1981.

Thomas Voltaggio,

Acting Regional Administrator.

[FR Doc. 81-2190 Filed 1-21-81; 6:45 am]

BILLING CODE 6530-38-M

#### 40 CFR Part 52

[A-7-FRL 1724-4]

#### Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rulemaking.

**SUMMARY:** The State of Missouri has submitted revisions to its State Implementation Plan (SIP) involving start-up, shutdown, and malfunction conditions. These changes to the Missouri regulations provide the owner or operator of an installation the opportunity to submit data regarding conditions resulting in excess emissions of air pollutants. The data will be used by the state to determine whether the excess emissions were due to start-up, shutdown or malfunction conditions. Enforcement action can then be taken at the state's discretion.

This notice advises the public that EPA proposes to approve the Missouri submission. Interested persons are invited to submit comments on this proposal.

**DATES:** Comment must be received before March 23, 1981.

**ADDRESSES:** Comments should be sent to Mr. Wayne G. Leidwanger, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64108. Copies of the state submission and the EPA prepared rationale document are available at the above address and at the following locations:

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street, S.W., Washington, D.C.  
20460.

Missouri Department of Natural  
Resources, 2010 Missouri Boulevard,  
Jefferson City, Missouri 65102.

**FOR FURTHER INFORMATION CONTACT:**  
Wayne G. Leidwanger at 816-374-3791  
(FTS 758-3791)

**SUPPLEMENTARY INFORMATION:** On September 5, 1980, the state of Missouri submitted Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, as a SIP revision. Included with the new rule were revisions to Rule 10 CSR 10-6.020 Definitions and deletion of start-up, shutdown and malfunction provisions from existing regulations in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050. These latter provisions generally allowed automatic exemptions from emission limitations during periods of excess emissions due to start-up, shutdown or malfunction conditions. The new rule is more restrictive in that the source must demonstrate that the excess emissions, although constituting a violation, were due to an unavoidable malfunction. The state will determine at its discretion whether additional enforcement action is warranted based upon data submitted by the owner or operator of a source showing that the excess emissions were the consequence of a malfunction, start-up or shutdown.

EPA believes that the imposition of a penalty for sudden and unavoidable malfunctions caused by circumstances entirely beyond the control of the owner or operator is not appropriate under certain conditions. However, because the SIP must provide for attainment and maintenance of the national ambient air quality standards (NAAQS), provisions on malfunctions, start-ups and shutdowns must be narrowly drawn. Regulations which provide for automatic exemptions where a malfunction is alleged by a source will not be approved by EPA. Automatic exemptions may aggravate air quality so as to result in not providing for attainment of the NAAQS as required by the Clean Air Act.

Start-ups and shutdowns must be treated similarly. Routine phasing in and out of process equipment is part of the normal operation of a source. It is reasonable to expect that careful planning or additional control equipment will eliminate violations of emission limitations during such periods. If excess emissions should occur during routine phasing in and out of such equipment, the excess emissions cannot be considered as having resulted from an exempted upset unless the source can demonstrate that such emissions were actually caused by a sudden and unforeseeable breakdown in the equipment.

The state has adopted a regulation which EPA believes is consistent with its policy regarding malfunctions, start-ups, and shutdowns. The rule provides that malfunctions are not automatically exempt nor is the routine phasing in and out of process equipment exempt from enforcement action. However, upon receipt of a notice of excess emissions, the source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown. Based upon this information, the state will determine whether additional enforcement action is warranted.

#### Proposed Action

EPA proposes to approve Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, and the revisions to Rules 10 CSR 10-6.020, 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050 as a revision to the State Implementation Plan.

The public is invited to submit comments on whether the Missouri submission should be approved as a revision to the SIP. The Administrator's decision to approve or disapprove will be based upon the comments received and on a determination of whether the amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

**Note.**—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state's action would serve no practical purpose and could well be improper.

Dated: January 14, 1981.

Kathleen Camin,  
Regional Administrator.

[FR Doc. 81-2196 Filed 1-21-81; 8:45 am]

BILLING CODE 6560-38-M

#### 40 CFR Part 52

[A-5-FRL 1724-6]

#### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Proposed Rulemaking.

**SUMMARY:** This notice proposes to revise sulfur dioxide (SO<sub>2</sub>) emission limitations in the federally promulgated Ohio State Implementation Plan (SIP) for sources in Pike and Wayne Counties. USEPA is proposing the revisions in response to a remand by the United States Court of Appeals for the Sixth Circuit in "Northern Ohio Lung Association v. EPA," 572 F.2d 1182 (1978). The Court held that the federally promulgated plan did not include specific provisions for meeting the secondary National Ambient Air Quality Standards for sulfur dioxide. Following the remand, USEPA reviewed the secondary standard modeling analyses it had performed in developing the plan. This review established that EPA had evaluated and set emission limits to protect the secondary standard in all but four counties: Delaware, Pike, Wayne, and Gallia counties. USEPA will propose rulemaking on Gallia County in a separate Notice of Proposed Rulemaking. Further analysis indicated that the current limits protect the secondary standards in Delaware County. Accordingly, EPA is not revising the plan for Delaware County. USEPA solicits comments on the revised sulfur dioxide emission limitations for sources in Pike and Wayne Counties.

**DATES:** Comments on this proposed review must be received on or before February 23, 1981. Requests for a public

hearing must be received no later than February 6, 1981.

**ADDRESSES:** Written comments and requests for a hearing should be sent to Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The docket for this revision (#5A-80-16) is on file at the above address and at Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street SW, Washington, D.C. 20460. The docket may be inspected and copied during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Mary Gade, Assistant Regional Counsel, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, Phone: 312/836-6073.

**SUPPLEMENTARY INFORMATION:** Section 110(a)(1) of the Clean Air Act (Act) requires each State to adopt and submit to USEPA a plan which provides for attainment and maintenance of the primary and secondary national ambient air quality standards. The plan for achieving the secondary standard may be submitted as part of a State's plan for achieving the primary standard or as a separate plan. The primary standard plan must provide for attainment no later than three years from plan approval. Attainment of the secondary standard must be within a reasonable time.

Under Section 110(c) of the Act, USEPA promulgated its substitute sulfur dioxide plan for the State of Ohio on August 27, 1976 and set emission limitations for Ohio sources to attain and maintain the national ambient air quality standards for sulfur dioxide. See 41 FR 36324, 41 FR 52455, and 42 FR 27588. As explained in USEPA's Final Technical Support Document, the federal plan was designed to insure attainment of both the primary and secondary sulfur dioxide standards within three years of plan approval.

On February 9, 1978, the U.S. Court of Appeals for the Sixth Circuit remanded to USEPA for its further consideration two aspects of the plan. "Northern Ohio Lung Association v. EPA", 572 F.2d 1182 (6th cir. 1978). The Court held that the plan did not comply with the requirements of section 110(a)(2)(F) of the Act and did not include specific provisions for meeting the secondary ambient air quality standards for SO<sub>2</sub>. This notice addresses the secondary standard portion of the remand.

Following the remand, USEPA reviewed the secondary standard modeling analyses it had performed in developing the sulfur dioxide plan. This

review established that USEPA had evaluated and set emission limits to protect the secondary standard in all but four counties: Gallia, Delaware, Pike, and Wayne Counties. In Gallia County, USEPA had not analyzed the secondary standard for Ohio Valley Electric Company's Kyger Creek power plant and Ohio Power Company's Gavin power plant. USEPA is remodeling the Gavin and Kyger Creek power plants to evaluate the secondary standards. Once the remodeling is completed, EPA will publish the results and if necessary, will revise the emission limitations. In Delaware, Pike and Wayne Counties, USEPA had evaluated the secondary standard, but had overlooked secondary standard violations and had not set adequate emission limitations for sources in those three counties.

Upon review of an updated emissions inventory which was submitted by the Ohio EPA, USEPA found that the emissions inventory used in the original USEPA modeling for Delaware and Pike Counties was outdated. The revised inventory for Pike County consisted of only one minor change and has no effect on the regulation. However, the updated inventory for Delaware County showed two substantial changes to the original USEPA inventory. Further discussion of the inventory changes can be found in the Technical Support Document in the docket. Therefore, USEPA conducted a modeling analysis of the updated inventory with the current emission limitation for Delaware County. The results indicate that the secondary standard is being protected with the current emission limitation. Therefore, no revision to the Delaware County regulation is required.

For Wayne and Pike Counties, USEPA has corrected the emission limitations based on the original EPA modeling and proposes the following revisions to assure that the secondary standard is protected.

The CRSTER modeling analysis for Pike County shows that the highest 3 hour ground level concentration of the Portsmouth Gaseous Diffusion Plant (previously ERDA) facility is 1102 µg/m<sup>3</sup>. Using the background concentration employed in the original modeling of 25 µg/m<sup>3</sup> it was determined that a 15.6% increase above the base year level of 2.291.9 nanogram/joule (ng/J) (5.33 lbs. SO<sub>2</sub>/MMBTU) will protect the NAAQS. Therefore USEPA proposes to revise the emission limitation for Pike county from 3.010 ng/J (7.00 lbs. SO<sub>2</sub>/MMBTU) to 2.648.8 ng/J (6.16 lbs. SO<sub>2</sub>/MMBTU). The CRSTER modeling analysis for Wayne County shows the second highest 3 hour ground level concentration for the



January 14, 1981

Changes to Federal Register PackageWayne G. Leidwanger  
Community PlannerOffice of Regional Liaison (A-101)  
Attention: Mrs. Mary Rhones

Enclosed are an original and two copies certified to be true, of a revised page 4 of a notice of proposed rulemaking. The notice proposes to approve Missouri's regulation on start-up, shutdown and malfunction conditions. The revised page includes language required by the Regulatory Flexibility Act.

WGLEIDWANGER:dfp:3791:ARHM-ARNB:11-14-80

DISK M/8 LEIDWANGER

## CONCURRENCES

SYMBOL	LEIDWANGER	WRIGHT	SPRATLIN					
SURNAME	<i>W</i>	<i>WRIGHT</i>	<i>WRIGHT</i>					
DATE	1/14/81	1/14/81	1/14/81					

The public is invited to submit comments on whether the Missouri submission should be approved as a revision to the SIP. The Administrator's decision to approve or disapprove will be based upon the comments received and on a determination of whether the amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

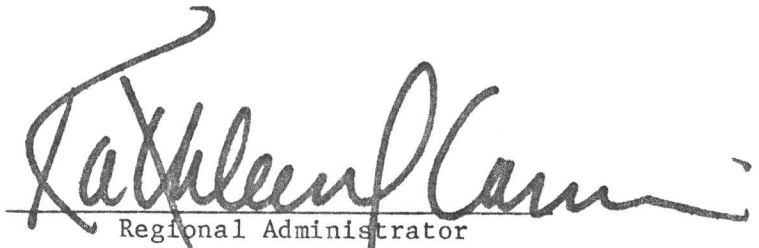
Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Pursuant to the provisions of 5 U.S.C. §605(b), I hereby certify that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state's action would serve no practical purpose and could well be improper.

DATED: JAN 14 1981

  
Regional Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DEC 19 1980

MO-18  
MO 12/19/80 065 SIP File  
(38,000,000.57) (already have  
in docket)

Missouri Revision to the State Implementation Plan (SIP) - SPECIAL ACTION

Kathleen Q. Camin, Ph.D.  
Regional Administrator, Region VII

Office of Regional Liaison (A-101)  
Attention: Mrs. Mary Rhones

Enclosed are an original and ten copies (two copies certified to be true) of a notice of proposed rulemaking for publication in the FEDERAL REGISTER and five copies of the rationale document. The notice advises the public that EPA proposes to approve changes to the Missouri SIP involving start-up, shutdown and malfunction conditions.

This rulemaking is being submitted as a special action in accordance with the memorandum of August 18, 1977, from Richard C. Rhoads, Director, Control Programs Development Division.

We request that the FEDERAL REGISTER provide the appropriate closing date on the first page of the notice.

A copy of this rulemaking package has been forwarded directly to the Control Programs Development Division. A copy of this rulemaking, the state's submission and the EPA prepared rationale document will be forwarded directly to the Public Information Reference Unit prior to publication of the notice.

If there are any questions, please contact Wayne G. Leidwanger at FTS 758-3791.

Enclosure

cc: Public Information Reference Unit (PM-213)  
Control Programs Development Division (MD-15)

WGLEIDWANGER:dgr:3791:ARHM-ANRB:11-17-80  
WGL GAW ANRB CNSL ENFC ARHM RGAD

DISK M/8 LEIDWANGER

CONCURRENCES

SYMBOL	WGL	GAW	ANRB	CNSL	ENFC	ARHM	RGAD
SURNAME	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
DATE	12/11/80	12/11/80	12/11/80	12/11/80	12/11/80	12/17/80	12/17/80

December 10, 1980

Missouri SIP Revision (Malfunction Conditions)

Director, Air and Hazardous Materials Division

Kathleen Q. Camin, Ph.D.  
Regional Administrator

Attached is a notice of proposed rulemaking for publication in the FEDERAL REGISTER. The notice advises the public that EPA proposes to approve a revision to the State Implementation Plan (SIP) involving start-up, shut-down and malfunction conditions.

BACKGROUND

Previous Missouri regulations provided that sources were automatically exempt from enforcement action if excess emissions were the result of start-up, shutdown or malfunction conditions. EPA's policy is that such exemptions should not be automatic. A case-by-case determination should be made as to whether the excess emissions were due to sudden and unforeseeable circumstances.

In order to comply with EPA's policy, the state adopted revisions to its SIP on September 19, 1979. The revisions were submitted to EPA on September 5, 1980. The new rule appears to comply with EPA's guidance on start-up, shutdown and malfunction conditions.

RECOMMENDATION

I recommend that you sign the proposed rulemaking and the transmittal memorandum to Mrs. Mary Rhones, Office of Regional Liaison.

David A. Wagoner  
Director, Air and Hazardous Materials Division

Attachments

WGLEIDWANGER:dgr:3791:ARHM-ANRB:11-17-80

DISK M/8 LEIDWANGER

WGL GAW ANRB CNSL ENFC ARHM

CONCURRENCES

SYMBOL	WGL	GAW	ANRB	CNSL	ENFC	ARHM		
SURNAME	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>				
DATE	12/11/80	12/11/80	12/11/80	12/12/80	12/ /80	12/ /80		

EPA Form 1320-1 (12-70)

OFFICIAL FILE COPY



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## Technical Evaluation of Missouri's Malfunction Regulation

Wayne Leidwanger  
Community Planner

### The Files

On September 5, 1980 the state of Missouri submitted a new regulation, Rule 10 CSR 10-6.050 Start-up, Shutdown and Malfunction Conditions, as a SIP revision. This regulation is intended to comply with EPA's policy regarding malfunctions. EPA recognizes the possibility of malfunctions but as a way of reducing the frequency of such episodes, it attempts to encourage good maintenance procedures by defining all periods of excess emissions as violations of the applicable standards. If a plan contains a malfunction provision it cannot be the type that provides automatic exemptions when a malfunction is alleged to have occurred by a source. Automatic exemptions might aggravate air quality so as to result in not providing for attainment of the ambient air quality standards as required by the Clean Air Act.

However, it is EPA's policy that SIP's which use the "enforcement discretion approach" can be approved. If the SIP places the burden on the source of demonstrating to the state that the excess emissions, although constituting a violation, were due to an unavoidable malfunction, such provisions can be approved. Based on information submitted by a source the state must determine whether additional enforcement action is required following a notice of excess emissions. The following factors must be considered by the state:

1. The air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;
2. Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off-shift labor and overtime must have been utilized to insure that such repairs were made as expeditiously as possible;
3. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;
4. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality; and

### CONCURRENCES

SYMBOL	WGL	for GAN						
SURNAME	<i>[Signature]</i>	<i>[Signature]</i>						
DATE	12/11/80	12/11/80						

5. The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

The Missouri malfunction regulation generally follows the EPA guidance. Previous malfunction provisions were written into Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040, and 10-5.050. The provisions in these regulations generally allowed automatic exemptions from emission limitations during periods of excess emissions due to malfunctions. The SIP revision submitted September 5 deletes these provisions from the above regulations. The new rule is more restrictive in that the state may determine at its discretion whether enforcement action is warranted based on data submitted by the owner or operator of a source emitting in excess of that allowed by applicable regulations. The provisions of the Missouri rule are consistent with EPA's policy regarding malfunctions.

EPA's policy regarding start-ups and shutdowns are similar. Routine phasing in and out of process equipment should be treated as part of the normal operation of a source. It is reasonable to expect that careful planning will eliminate violations of emission limitations during such periods. If excess emissions occur during routine phasing in and out of such equipment, the excess emissions will not be considered as having resulted from a malfunction unless the source can demonstrate that such emissions were actually caused by a sudden and unforeseeable breakdown in the equipment. The Missouri regulation is consistent with EPA's policy regarding start-ups and shutdowns. The rule provides that the routine phasing in and out of process equipment is not automatically exempt from enforcement action. A source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown and based upon this information, the state will determine whether additional enforcement action is warranted.

The revisions to the Missouri regulations which were submitted on September 5, 1980, are consistent with EPA's guidance on start-up shutdown and malfunction conditions and should be approved by EPA.



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans:

State of Missouri

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rulemaking

SUMMARY: The State of Missouri has submitted revisions to its State Implementation Plan (SIP) involving start-up, shutdown, and malfunction conditions. These changes to the Missouri regulations provide the owner or operator of an installation the opportunity to submit data regarding conditions resulting in excess emissions of air pollutants. The data will be used by the state to determine whether the excess emissions were due to start-up, shutdown or malfunction conditions. Enforcement action can then be taken at the state's discretion.

This notice advises the public that EPA proposes to approve the Missouri submission. Interested persons are invited to submit comments on this proposal.

DATES: Comments must be received before (60 days after publication).

ADDRESSES: Comments should be sent to Mr. Wayne G. Leidwanger, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA prepared rationale document are available at the above address and at the following locations:

Public Information Reference Unit  
Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Missouri Department of Natural Resources  
2010 Missouri Boulevard  
Jefferson City, Missouri 65102

FOR FURTHER INFORMATION: Contact Wayne G. Leidwanger at 816-374-3791  
(FTS 758-3791).

SUPPLEMENTARY INFORMATION: On September 5, 1980, the state of Missouri submitted Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, as a SIP revision. Included with the new rule were revisions to Rule 10 CSR 10-6.020 Definitions and the deletion of start-up, shutdown and malfunction provisions from existing regulations in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050. These latter provisions generally allowed automatic exemptions from emission limitations during periods of excess emissions due to start-up, shutdown or malfunction conditions. The new rule is more restrictive in that the source must demonstrate that the excess emissions, although constituting a violation, were due to an unavoidable malfunction. The state will determine at its discretion whether additional enforcement action is warranted based upon data submitted by the owner or operator of a source showing that the excess emissions were the consequence of a malfunction, start-up or shutdown.

EPA believes that the imposition of a penalty for sudden and unavoidable malfunctions caused by circumstances entirely beyond the control of the owner or operator is not appropriate under certain conditions. However, because the SIP must provide for attainment and maintenance of the national ambient air quality standards (NAAQS), provisions on malfunctions, start-ups and shutdowns must be narrowly drawn. Regulations which provide for automatic exemptions where a malfunction is alleged

by a source will not be approved by EPA. Automatic exemptions may aggravate air quality so as to result in not providing for attainment of the NAAQS as required by the Clean Air Act.

Start-ups and shutdowns must be treated similarly. Routine phasing in and out of process equipment is part of the normal operation of a source. It is reasonable to expect that careful planning or additional control equipment will eliminate violations of emission limitations during such periods. If excess emissions should occur during routine phasing in and out of such equipment, the excess emissions cannot be considered as having resulted from an exempted upset unless the source can demonstrate that such emissions were actually caused by a sudden and unforeseeable breakdown in the equipment.

The state has adopted a regulation which EPA believes is consistent with its policy regarding malfunctions, start-ups, and shutdowns. The rule provides that malfunctions are not automatically exempt nor is the routine phasing in and out of process equipment exempt from enforcement action. However, upon receipt of a notice of excess emissions, the source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown. Based upon this information, the state will determine whether additional enforcement action is warranted.

PROPOSED ACTION: EPA proposes to approve Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions, and the revisions to Rules 10 CSR 10-6.020, 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040 and 10-5.050 as a revision to the State Implementation Plan.

The public is invited to submit comments on whether the Missouri submission should be approved as a revision to the SIP. The Administrator's decision to approve or disapprove will be based upon the comments received and on a determination of whether the amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

DATED: **DEC 19 1980**

  
Regional Administrator



MO-18

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: December 10, 1980

SUBJECT: Technical Evaluation of Missouri's Malfunction Regulation

FROM: Wayne Leidwanger  
Community Planner

TO: The Files

On September 5, 1980 the state of Missouri submitted a new regulation, Rule 10 CSR 10-6.050 Start-up, Shutdown and Malfunction Conditions, as a SIP revision. This regulation is intended to comply with EPA's policy regarding malfunctions. EPA recognizes the possibility of malfunctions but as a way of reducing the frequency of such episodes, it attempts to encourage good maintenance procedures by defining all periods of excess emissions as violations of the applicable standards. If a plan contains a malfunction provision it cannot be the type that provides automatic exemptions when a malfunction is alleged to have occurred by a source. Automatic exemptions might aggravate air quality so as to result in not providing for attainment of the ambient air quality standards as required by the Clean Air Act.

However, it is EPA's policy that SIP's which use the "enforcement discretion approach" can be approved. If the SIP places the burden on the source of demonstrating to the state that the excess emissions, although constituting a violation, were due to an unavoidable malfunction, such provisions can be approved. Based on information submitted by a source the state must determine whether additional enforcement action is required following a notice of excess emissions. The following factors must be considered by the state:

1. The air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;
2. Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off-shift labor and overtime must have been utilized to insure that such repairs were made as expeditiously as possible;
3. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;
4. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality; and

5. The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

The Missouri malfunction regulation generally follows the EPA guidance. Previous malfunction provisions were written into Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040, and 10-5.050. The provisions in these regulations generally allowed automatic exemptions from emission limitations during periods of excess emissions due to malfunctions. The SIP revision submitted September 5 deletes these provisions from the above regulations. The new rule is more restrictive in that the state may determine at its discretion whether enforcement action is warranted based on data submitted by the owner or operator of a source emitting in excess of that allowed by applicable regulations. The provisions of the Missouri rule are consistent with EPA's policy regarding malfunctions.

EPA's policy regarding start-ups and shutdowns are similar. Routine phasing in and out of process equipment should be treated as part of the normal operation of a source. It is reasonable to expect that careful planning will eliminate violations of emission limitations during such periods. If excess emissions occur during routine phasing in and out of such equipment, the excess emissions will not be considered as having resulted from a malfunction unless the source can demonstrate that such emissions were actually caused by a sudden and unforeseeable breakdown in the equipment. The Missouri regulation is consistent with EPA's policy regarding start-ups and shutdowns. The rule provides that the routine phasing in and out of process equipment is not automatically exempt from enforcement action. A source may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown and based upon this information, the state will determine whether additional enforcement action is warranted.

The revisions to the Missouri regulations which were submitted on September 5, 1980, are consistent with EPA's guidance on start-up shutdown and malfunction conditions and should be approved by EPA.

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MO-18

DATE:

DEC 1 1980

SUBJECT:

Proposed Rulemaking - Missouri State Implementation Plan (SIP) - Malfunction

FROM:

Michael J. Sanderson *MS*  
Chief, CMPL/ENFC

TO:

William A. Spratlin  
Chief, ARHM/ASUP

THRU:

Louise D. Jacobs *LDJ*  
Director, ENFCDavid A. Wagoner *DAW*  
Director, ARHM

SIP Docket

The following are our comments on the 40 CFR 52 Federal Register package regarding the malfunction regulation changes of the Missouri SIP.

On page 2, of your draft, you state that Missouri may determine, at its discretion, whether further enforcement action is warranted on reported notices of excess emission. Further enforcement action by the state is keyed not to discretion but to actual procedures of evaluation in the notice of excess emission citation. The type of further enforcement action may be at the discretion of the Missouri Department of Natural Resources (MDNR), if a violation has been determined. The state has specific enforcement procedures for upset conditions, which are not discretionary.

We don't believe the final sentence, specifically the part in parenthesis, is necessary. Our insistence that control of upsets by narrowly defining what is an acceptable unforeseen malfunction has necessitated this malfunction regulation change.

The last two sentences of the first paragraph may require additional wording. Specifically, we request that, in addition to "Careful planning" in line seven, "Or additional control equipment" should be added. Line eleven should read, "from an exempted upset defined in the proposed regulation unless", thus avoiding the question whether routine phasing in or out of equipment is startup, shutdown or a malfunction.

The second paragraph of page 3, third sentence, refers to the notice of excess emissions (NOEE). The sentence should read, "the source shall", not "may", provide information on the NOEE, further, the state "will" determine if further enforcement actions are warranted. Both changes reflect the wording in the NOEE response procedures on the reverse of each citation.

KANSAS CITY, MO.  
ARHM - ASUP  
EPA - REG. VII

DEC 05 1980

RECEIVED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: OCT 9 1980

SUBJECT: Review of the Proposed Missouri Department of Natural Resources Rule Regarding Start-up, Shutdown and Malfunction

FROM: John R. Helvig *John R. Helvig*  
Chief, Air Section, TECH/SVAN

TO: Wayne Leidwanger  
Air Support Branch, ARHM

After review of proposed rule 10 CSR 10-6.050, we feel the reporting requirements are too lenient and will result in most periods of excess emissions due to malfunctions being unnecessarily lengthy before correction. The source should be required to notify the State or local agency within 72 hours of the beginning of excess emissions. The minimal information contained in this phone call should be the following:

1. name and location of installation,
2. name and phone number of person responsible for the installation,
3. the time and duration of the period of excess emissions,
4. the process and control equipment associated with the source of the excess emissions,
5. schedule of maintenance to correct the malfunction.

After receipt of the notification (phone), decisions on whether to document the period of excess emissions by VE readings and on whether to require a written report from the source could be made.

The purpose of requiring malfunction notification is to expedite correction of the malfunction. As proposed, the rule allows a source to ignore malfunctions until the State or local agency has issued a notice of excess emissions. Since sources are inspected by the State on an annual basis, this rule allows, in an extreme case, a malfunction condition to go unnoticed for a period up to one year.

RECEIVED

OCT 10 1980

EPA REGION VI  
ASH - ASUP  
K. N. S. C. P. C. C.

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: SEP 30 1980

SUBJECT: State Implementation Plan Revisions - Missouri Regulations  
10 CSR 10-6.020, 10 CSR 10-6.050FROM: Michael J. Sanderson *MS*  
Chief, ENFC-CMPLTO: Terry Satterlee Watt  
Chief, ENFC-LEGL

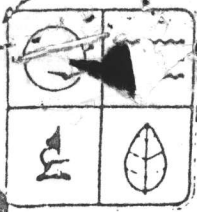
The subject regulations pertaining to definitions for malfunction, startup, shutdown and notices of excess emission have been reviewed.

The malfunction definition now includes the qualifier that improper design shall not be deemed a malfunction. Therefore, when a source responds to a notice of excess emission (NOEE), identification of possible design problems with both the air control equipment and/or processes will also be sought and subject to further enforcement action. Enforcement actions will be dependent upon the frequency of occurrence. The state has defined, in their Enforcement Procedural Manual, that two(2) NOEEs involving the same problem constitutes a mandatory violation notice. This will provide an incentive to upgrade equipment which the state did not possess before, other than through stack testing.

The start-up and shut-down definitions have new phraseology which eliminates the routine phasing in or out of process equipment. Previously, a source could be exempt from enforcement action in this situation. The added phrase eliminates the "routine" from exemption and therefore makes the NOEE enforcement actions tougher. Specifically, the regulation discussion states that the pollution control equipment shall be operated and all additional measures to minimize the emissions occurring from routine start-up or shut-down shall be employed and will not constitute an exemption for excess emissions. Thus, if excess emissions do occur, then the source is forced into the design evaluation required under the NOEE actions which may identify needed equipment upgrading.

The changes made in both regulations should aid both the state and federal enforcement personnel by narrowing the exempted emissions under start-up, shut-down and malfunction.





MO-18

September 2, 1980

RECEIVED

SEP 14 1980

EPA - REG. VII  
ARIIM - ASUP  
KANSAS CITY, MO

Kathleen Q. Camin, Ph.D.  
Regional Administrator  
U.S. Environmental Protection Agency  
324 East 11th Street  
Kansas City, MO 64106

Dear Dr. Camin:

The Missouri Air Conservation Commission has formally adopted a Missouri Lead Plan and revisions to the St. Louis and Kansas City Metropolitan Plans for ozone. As the Governor's designated representative, I am submitting the Lead Plan and the revisions for approval and inclusion into the Missouri State Implementation Plan.

I am also requesting a two-year extension of the attainment date for the lead plan according to 40 CFR 51.30 Subpart C and by authority §110 (e) of the Clean Air Act.

The following items were adopted on the indicated dates after public hearings held in accordance with 40 CFR 51.4:

Lead Plan - August 13, 1980.

✓ 10 CSR 10-6.050 (Malfunction Rule) - September 19, 1979.

VOC Rules - July 9, 1980:

10 CSR 10-2.230 "Control of Emissions from Industrial Surface Coating Operations".

10 CSR 10-2.280 "Control of Emissions from Perchloroethylene Dry Cleaning Installations".

10 CSR 10-2.290 "Control of Emissions from Rotogravure and Flexographic Printing Facilities".

10 CSR 10-2.300 "Control of Emissions from Manufacture of Synthesized Pharmaceutical Products".

10 CSR 10-5.320 "Control of Emissions from Perchloroethylene Dry Cleaning Installations".

10 CSR 10-5.330, "Control of Emissions from Industrial Surface Coating Operations".

MISSOURI DEPARTMENT OF NATURAL RESOURCES  
P.O. Box 176 Jefferson City, Missouri 65102 (314) 751-4422

Joseph P. Teasdale Governor  
Fred A. Lafser Director

Kathleen Q. Camin

Page Two

September 2, 1980

10 CSR 10-5.340 "Control of Emissions from Rotogravure and Flexographic Printing Facilities".

10 CSR 10-5.350 "Control of Emissions from Manufacture of Synthesized Pharmaceutical Products".

10 CSR 10-6.030, "Sampling Methods for Air Pollution Sources".

10 CSR 10-6.040, "Reference Methods".

VOC Rules - August 13, 1980:

10 CSR 10-2.260, "Control of Petroleum Liquid Storage, Loading, and Transfer".

10 CSR 10-5.220, "Control of Petroleum Liquid Storage, Loading, and Transfer".

10 CSR 10-6.020, "Definitions".

The above VOC rules evolved from addressing the ten CTG's of Category II. The following comments apply to the CTG's that are not specifically covered in the thirteen new VOC rules listed above:

- A. "Leaks from Petroleum Refinery Equipment", Missouri rule 10 CSR 10-2.250 has already been promulgated for Kansas City.
- B. "Manufacture of Vegetable Oil" and "Manufacture of Pneumatic Rubber Tires" - no sources in the state.
- C. "Surface Coating of Flat Wood Paneling" - there are no facilities in areas to require the CTG application.

On the attached sheets we are listing the documents and materials here furnished as required for your review and approval of the Lead SIP, the Malfunction Regulation, and the VOC Regulations. If any additional information is required, please advise Mr. John Haasis, Staff Director of the Air Pollution Control Program.

Very truly yours,

ORIGINAL SIGNED BY  
FRED A. LAFSER  
Fred Lafser  
Director

FL:EC:dl  
Enclosure

FILED

OCT 15 1979

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 6 - Air Quality Standards,

Definitions, and Reference Methods

for the State of Missouri

*James S. Kirkpatrick*  
SECRETARY OF STATE

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-6.020 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 308-309), proposing the addition of paragraphs (2)(E) 6., (2)(M) 7., (2)(S) 8., and (2)(S) 10. defining key expressions used in chapters one through six. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the additions, under consideration, the additions as printed in the April 2, 1979 Register, and amendments as a result of public hearing, were adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: The amendments are to define key expressions used in chapters one through six.

The commission has amended the proposed "malfunction" definition in the following way to encourage the redesigning of defects instead of allowing the broken parts to be continually replaced:

7. Malfunction - a sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal and usual manner; excess emissions caused by improper design shall not be deemed a malfunction.

To clearly show that if a process requires the routine start-up of a component piece of equipment, the control equipment should be sufficiently designed and maintained to handle such periods of increased emissions, a phrase was added to the start-up definition:

8. Start-up - the setting into operation of any air pollution control equipment or process equipment /. /, except the routine phasing in of process equipment.

To clearly show that if a process requires the routine shutdown of a component piece of equipment, the control equipment should be sufficiently designed and maintained to handle such periods of increased emissions, a phrase was added to the shutdown definition:

10. Shutdown - the cessation of operation of any air pollution control equipment or process equipment /. /, except the routine phasing out of process equipment.

Accordingly, the amendments to 10 CSR 10-6.020, as proposed in the April 2, 1979 Missouri Register, along with the following revisions, will become effective November 11, 1979.

## 10 CSR 10-6.020 Definitions

## (2) Definitions

(E) All terms beginning with "E":

6. Excess emissions - emissions which exceed requirements of any applicable emission control regulation.

(M) All terms beginning with "M":

7. Malfunction - /any sudden and unavoidable failure of air pollution control equipment or process equipment or failure of a process to operate in a normal or usual manner, but failures that are caused entirely by poor maintenance, careless operation or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions / a condition that has been determined by the director to be / a sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal and usual manner. Excess emissions caused by improper design shall not be deemed a malfunction.

(S) All terms beginning with "S":


8. Start-up - /the setting in operation of a source for any purpose. / the setting into operation of any air pollution control equipment or process equipment / /, except the routine phasing in of process equipment.

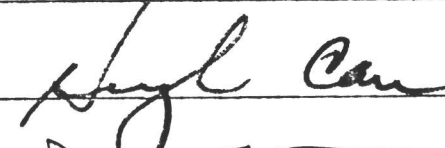
10. Shutdown - /the cessation of operation of any source for any purpose. / the cessation of operation of any air pollution control equipment or process equipment / /, except the routine phasing out of process equipment.

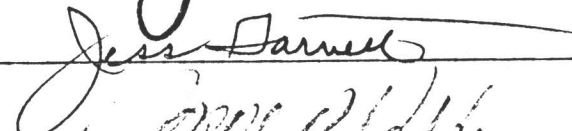


Amendments to Rule 10 CSR 10-6.020, Definitions; Air Quality Standards, Definitions, and Reference Methods for the State of Missouri; were adopted by the Missouri Air Conservation Commission on September 19, 1979.

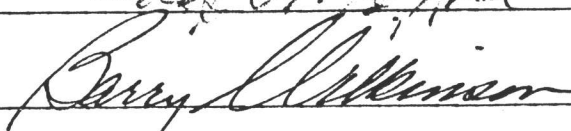
  
Chairman

  
Vice-Chairman

  
Member

  
Member

  
Member

  
Member

  
Member

Minutes of the  
Missouri Air Conservation Commission Meeting  
Sheraton St. Louis Hotel, 910 North Seventh Street  
St. Louis, Missouri  
September 19, 1979

Commission Members Present

John G. Levis, Chairman  
Jess Garnett, Member  
Barry Wilkinson, Member  
Hugh Carr, Member  
Joseph Pepper, Member

Commission Members Absent

James L. Robinett, Jr., Vice-Chairman  
Charles Fuchs, Member

Staff Members Present

Robert Schreiber, Staff Director, Air Pollution Control Program (APCP)  
John W. Haasis, Chief of Planning, APCP  
Randall E. Raymond, Chief of Engineering, APCP  
Nick Nikkila, Chief of Enforcement, APCP  
Dan Summers, Assistant Attorney General  
Debora Burgess, DNR Information Officer  
Rancy Hastings, Environmental Engineer, APCP  
Tom Scheppers, Environmental Engineer, APCP  
Todd Crawford, Environmental Engineer, APCP  
Frances Wekenborg, Secretary, Division of Environmental Quality  
Diana Lueckenotte, Clerk-Stenographer, APCP

Others Present

See attached page.

Please Sign

<u>Name</u>	<u>Company</u>	<u>Address</u>
MIKE KERNEY	AMAX LEAD	BOSS MO
E D HENDERSON	ST JOE LEAD CO	CLAYTON, Mo.
F. J. LAHM	RIVER CEMENT CO.	ST L MO
Frances Wikenborg	DNR-DEQ	J. C., Mo.
Todd Crawford	DNR DEQ APCA	JC, MO
Michael J. Hall	Chemxon Chemical Co	MHTS, Mo.
Arnold Koester	Ford Motor Co.	Wagelwood, Mo.
B. H. Hines	Teneco Corp	Wagelwood/Hts, Mo.
Pete Smith	Monsanto Co.	St. Louis, Mo.
DG Morrison	RIVER CEMENT	St. L, Mo
D. J. GRANA	GMAD	ST LOUIS
R. W. Ginson	Amco Oil	Sugar Creek
V. VOLLAND	POST-DISPATCH	
J. WALDBESER	MONSANTO	ST. LOUIS
ROBERT SAGER	CITY OF ST. LOUIS CDA	St. Louis
WHEEN SWEET	East-West Gateway	ST. LOUIS
Ellen Barker	"	St. Louis
Susan Size	"	ST. LOUIS
Blair Rhoades	St Louis County	Clayton Mo.
LARRY COLE	City of K.C. Mo.	K.C. Mo.
WILL SASS	APCA	ST. LOUIS
James Bogart	East-West Gateway	St. Louis
Michael Menne	Union Electric	" "
Clint Lory	Amco Inds of Mo.	ST. L.
Evelyn Druehlman	AHA y Eastern Mo.	St-Louis
Ralph Keller	Mobay	K.C. Mo
H. W. Hammett	AFL-CIO	JEFF. CITY MO

A. Call to order.

Chairman Levis called the meeting to order at 8:45 a.m.

B. Minutes of last meeting - approval needed.

The Commission reviewed the minutes before them. Mr. Carr moved the minutes be approved as presented. Second by Mr. Wilkinson. Motion unanimously carried.

C. Complaint report - discussion.

After a short discussion on the complaint reports for July and August, 1979, they were filed.

E. Possible adoption of:

1. Proposed amendments to 10 CSR 10-2.030, 10 CSR 10-3.050, 10 CSR 10-4.030, and 10 CSR 10-5.050, all entitled Restriction of Emission of Particulate Matter from Industrial Processes. *(delete ref. to "Malfunctions")*
2. Proposed amendments to 10 CSR 10-3.060 and 10 CSR 10-4.040, both entitled Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.
3. Proposed amendment to 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants.
4. Proposed amendments to 10 CSR 10-6.020, Definitions.
5. Proposed Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions.

Mr. Schreiber reviewed with the Commission a summary of comments received from industry and other interested parties concerning these rules since the June, 1979 presentation to the Commission, copy attached.

Mr. Wilkinson moved adoption of the amendments and regulation and the State Implementation Plan amended to include these. Second by Mr. Pepper. Motion unanimously carried.

At this point Chairman Levis adjourned the Commission meeting and called the public hearing to order.

D. Public Hearing

The following amendments and proposed rule were discussed at the public hearing:

1. Proposed amendments to 10 CSR 10-2.030, Restriction of Emission of Particulate Matter from Industrial Processes.
2. Proposed amendment to 10 CSR 10-2.060, Restriction of Emission of Visible Air Contaminants.
3. Proposed amendment to 10 CSR 10-6.030, Sampling Methods for Air Pollution Sources.
4. Proposed rule 10 CSR 10-2.270, Restriction of Emissions from Catalytic Cracking Units.

The proceedings of the public hearing were transcribed by Gore Reporting Company, St. Louis, and a transcript of these proceedings are available for public perusal in the Air Pollution Control Program's offices, 2010 Missouri Boulevard, Jefferson City, Missouri.

Mr. Wilkinson moved the public hearing be adjourned. Second by Mr. Carr.

THE PUBLIC HEARING WAS ADJOURNED; THE COMMISSION MEETING WAS RECONVENED.

F. Enforcement Action:

1. Variance extension request by Monsanto Company, J. F. Queeny Plant (K-Street Boiler), St. Louis.

Monsanto Company was granted a variance on September 20, 1978 for its K-Street Boiler, which was violating 10 CSR 10-5.090, Restriction of Emission of Visible Air Contaminants. Monsanto has installed a thermal oxidizer with a heat recovery system which can, also, operate as an oil fired boiler.

Monsanto has complied with the terms and conditions of their variance order to date to attain compliance by December 31, 1981.



Mr. Pepper moved that the Monsanto Company be granted a one-year variance extension. Second by Mr. Garnett. The chair abstained from the vote; Messrs Pepper, Garnett, Carr and Wilkinson all agreed to the motion for extension.

G. Litigation.

1. Dan Summers briefed the Commission on the outcome of the McLean Ranches trial held August 23.
2. Pilot Knob Pellet Company requested a "Motion for Substitution of Parties". The operations at Pilot Knob will continue along the same basis as prior to partnership formation; they wish their present variance order to reflect the new partnership.

A motion for the Substitution of Names was made and seconded. The Commission unanimously approved.

3. Six Flags Materials Corporation - Mr. Summers had been in contact with the attorneys from both sides. The attorneys were scheduled to appear later, so the Commission decided to discuss this matter then.

H. Other business.

1. EPA's Inspection Policy.

The APCP opposes the present method EPA is utilizing for performing the yearly "audit" checks on state and local air pollution control agencies. A resolution was drafted voicing our opposition to this policy.

Mr. Wilkinson moved the Resolution be adopted and signed. Second by Mr. Carr. The motion unanimously carried, and the resolution was signed by all Commissioners present.

Mr. Cole, Kansas City APCP, summarized a letter he received from Mr. David Tripp, EPA Legal Counsel. In that letter EPA informed Mr. Cole that Radian Corporation was acting on behalf of EPA; thus, they should be allowed to look at confidential material, which the Kansas City office felt should be kept confidential except to EPA.

Minutes, MACC Meeting  
Page Six  
September 19, 1979

2. State/EPA Agreement.

The APCP staff and the local agency staffs are still negotiating on fulfilling the requirements of the Agreement. There is only half enough staff to complete all the requirements. Mr. Schreiber stated he would contact EPA regarding the requirements which the APCP will perform during FY80.

I. Future Meeting Dates.

November 7, 1979 - Cheshire Inn & Lodge, 6300 Clayton at Skinker, St. Louis, Missouri.

December 19, 1979 - Crown Center, One Pershing Road, Kansas City, Missouri.

January 23, 1980 - Bel-Air Hilton, St. Louis.

February 27, 1980 - Hilton Plaza Inn on the Country Club Plaza, Kansas City.

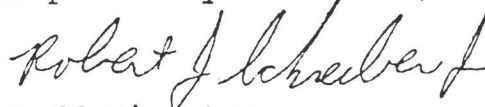
March 26, 1980 - Tan-Tar-A.

April 23, 1980 - Sheraton West Port Inn, St. Louis.

J. Adjournment.


Since the attorneys from the Six Flags case were not yet present, the Commission meeting was adjourned. Mr. Levis, Chairman, was asked to attend the pre-hearing conference, which he did.

Respectfully submitted,



Staff Director  
Air Pollution Control Program

APPROVED:



Chairman  
Air Conservation Commission

/dl

P.S. The Chairman, John Levis, was replaced shortly after this Commission meeting, September 21, 1979.

FILED

OCT 15 1979

*James E. Kirkpatrick*  
SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 6 - Air Quality Standards,  
Definitions, and Reference Methods for  
the State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby adopts a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-6.050 is adopted.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 309-310), to provide owners or operators of an installation the opportunity to submit data regarding conditions which result in excess emissions due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed rule, under consideration, rule 10 CSR 10-6.050 was adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: A number of complaints were made, especially by representatives of the cement industry, that they would not be able to start-up without being in violation.

The commission's response to these complaints was that if the excess emissions are the result of a true start-up condition and if the start-up is performed in a manner which minimizes the extent and duration of the excess emissions, enforcement discretion will be exercised.

Comments were received concerning the unreasonable burden of paperwork that would be imposed on the cement industry as start-ups and shutdowns occur many times during the day. Most commentators stated that reports of this kind would require the hiring of an extra engineer and secretary. One commentator stated that the proposed rule will only add more paperwork, with little improvement on air quality in Missouri. One commentator stated a phone call should suffice instead of the report. Yet, another commentator felt reporting on a quarterly or semi-annual basis would be feasible.

The commission responded to these comments by dropping the requirement that industry report on themselves whenever excess emissions occurred. Instead, reporting has been limited to those periods of excess emissions which are observed by state and local air pollution regulatory personnel.

One commentator observed that an exact measurement of the excess emissions would not be feasible.

The commission agreed with the commentator and has taken care of this in paragraph (1)(B) 7. with the inclusion of wording which requires "a best estimate of the magnitude of the excess emissions".

A comment was made that the requirement to report excess emissions within 48 hours of the beginning of such emissions would be extremely difficult, especially where weekends and holidays are concerned.

The 48-hour requirement was dropped by the commission with the passage of subsection (1)(C) requiring that reports be submitted within 15 days after the receipt of a notice of excess emissions.

It was commented that for the company submitting the reports it would no longer become a factual document, but a document proving their innocence. The criteria to be evaluated in reaching a determination would be open to interpretation as to what is reasonable, avoidable, practical, or the result of poor performance, careless operation or even a threat to public health or ambient air quality. Each of these are judgment factors and not clearly measurable. It was felt that the entire section, as written, would require that all reports be submitted by attorneys, since the reports are the basis for the determination of enforcement action.

This problem has been alleviated with the deletion of subsections (2) and (3) and the adoption of subsection (1)(B), paragraphs 1 - 9.

Another commentator stated that if a source adequately reports an upset or malfunction, it should not be considered a violation. He saw the proposed rule as unenforceable, since most sources would have no incentive to report the occurrences of excess emissions.

Industry is no longer required to report on itself with the deletion of subsections (2) and (3) by the commission.

One commentator felt the present proposal implied, but falls short of, a statement policy which allows the director or commission to determine that excess emissions are, in fact, subject to suspension



during periods of start-up, shutdown, or malfunction. The commentor felt a statement should be added at the beginning of the General Provision to read "Standards of Performance are suspended during periods of start-up, shutdown, and malfunction. Operators are required to minimize emissions to the extent possible during such periods and to report excess emissions and actions taken". This statement would clarify the intent that the commission or director has the authority not only to enforce action, but to forego enforcement action when it is determined, in the judgment of the commission or director, that the start-up, shutdown, or malfunction was truly the result of the nature of the process with good faith effort being put forth by the operator of the source to minimize the emissions.

The commission has concluded that such a statement of automatic non-discretionary enforcement cannot be in the rule since approval of the State Implementation Plan is desired. Furthermore, the commission felt that the intent, as it pertains to discretionary enforcement, is clearly stated in the rule.

Accordingly, 10 CSR 10-6.050, as printed in the April 2, 1979 Missouri Register, along with the above amendments adopted by the Air Conservation Commission, will become effective November 11, 1979. 10 CSR 10-6.050 is printed below in its entirety:

10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions

PURPOSE: This rule, applicable to all installations in the State of Missouri, provides the owner or operator of an installation the opportunity to submit data regarding conditions which resulted in excess emissions. These submittals will be used by the director to determine whether the excess emissions were due to a start-up, shutdown or malfunction condition. Such determinations will be the basis for further enforcement action.

## (1) General Provisions

/(A) Operations of any source during periods of start-up, shutdown, or malfunction shall not constitute representative conditions for the purpose of compliance testing.

(A) Upon receipt of a notice of excess emissions issued by the Missouri Department of Natural Resources or an agency holding a certificate of authority under Section 203.140, RSMo., the source to which the notice is issued may provide information showing that the excess emissions were the consequence of a malfunction, start-up or shutdown. Based upon any information submitted by the source operator, and any other pertinent information available, the director or the commission shall make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown, and whether the nature, extent and duration of the excess emissions warrant enforcement action under Sections 203.080 or 203.151, RSMo. In determining whether enforcement action is warranted, the director or commission shall consider the following factors:

1. Whether the excess emissions during start-up, shutdown or malfunction, occurred as a result of safety, technological or operating constraints of the control equipment, process equipment, or process.

2. Whether the air pollution control equipment, process equipment, or processes were, at all times, maintained and operated to the maximum extent practical, in a manner consistent with good practice for minimizing emissions.

3. Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring.

4. Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of such emissions.

5. Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality.

∟(B) Nothing in this rule shall be construed to limit the obligation of an installation to attain and maintain the national ambient air quality standards, nor to limit the authority of the director to take appropriate enforcement action whenever attainment or maintenance of national ambient air quality standards is threatened or whenever the public health is endangered.<sup>7</sup>

(B) The information provided by the source operator under subsection (1) (A) shall include, at a minimum, the following:

1. Name and location of installation;
2. Name and telephone number of person responsible for the installation;
3. The identity of the equipment causing the excess emissions;
4. The time and duration of the period of excess emissions;
5. The cause of the excess emissions;
6. The type of air contaminant involved;
7. A best estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and

calculations used in estimating the magnitude;

8. The measures taken to mitigate the extent and duration of the excess emissions;

9. The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

(C) The information specified in subsection (1)(B) shall be submitted to the director not later than 15 days after receipt of the notice of excess emissions.

(D) Nothing in this regulation shall be construed to limit the authority of the director or the commission to take appropriate action under Sections 203.080, 203.090 and 203.151, RSMo., to enforce the provisions of the Air Conservation Law and the regulations promulgated thereunder.

2) Planned Start-Up and Shutdown Reporting

(A) The owner or operator of an installation subject to this rule shall notify the director, in writing, whenever a planned start-up or shutdown may result in excess emissions. This notice shall be mailed no later than ten (10) days prior to such action, and shall include, but not be limited to, the following information:

1. Name and location of the installation;
2. Name and telephone number of person responsible for the installation;
3. The identity of the equipment which may cause excess emissions;

4. Reasons for proposed shutdown or start-up;
5. Duration of anticipated period of excess emissions;
6. Date and time of proposed shutdown or start-up;
7. Physical and chemical composition of pollutants whose emissions are affected by the action;
8. Methods, operating data, and/or calculations used to determine these emissions;
9. Quantification of emissions during such action in the units of the applicable emission control regulation;
10. All measures planned to minimize the extent and duration of excess emissions during the shutdown and ensuing start-up.

⌈(3) Malfunction and Unplanned Shutdown Reporting

(A) The owner or operator of an installation subject to this rule shall notify the director, in writing, whenever emissions due to malfunctions, unplanned shutdowns or ensuing start-ups are, or may be, in excess of applicable emission control regulations. Such notification shall be mailed within forty-eight (48) hours of the beginning of each period of excess emissions, and shall include, but not be limited to, the following information:

1. Name and location of installation;
2. Name and telephone number of person responsible for the installation;
3. The identity of the equipment causing the



excess emissions;

4. The time and duration of the period of excess emissions;

5. Physical and chemical composition of the subject pollutants;

6. Quantification of emissions from all sources in violation, in units of the applicable emission control regulation;

7. Methods, operating data, and/or calculation used to determine these emissions;

8. Steps taken to minimize the extent and duration of the excess emission and their effect on air quality during the period of excess emissions;

9. Steps taken to remedy the situation which caused the violation, and the steps taken or planned to prevent the recurrence of such situations;

10. Meteorological conditions in effect at the time of the violation.]

[(4) Enforcement Action

(A) The director shall make a determination of whether or not a malfunction did occur and what, if any, enforcement action should be taken when excess emissions are caused by start-up, shutdown, or malfunction conditions. This determination will incorporate consideration of the following requirements:

1. All notification requirements of the rule have been met;

2. The malfunction, shutdown, or start-up did not result entirely or in part from poor maintenance, careless operation, or any other preventable upset conditions or equipment breakdowns;

3. All reasonable steps were taken to correct, as expeditiously as practicable, the conditions causing the excess emissions, including the use of off-shift labor and overtime if necessary;

4. All reasonable steps were taken to minimize the emissions and their effect on air quality;

5. The malfunction or shutdown is not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

6. The excess emissions are not a threat to public health or ambient air quality.

(B) If the director determines that the reporting requirements of sections (2) and/or (3) of this rule are inappropriate to a particular installation, he may establish other reporting requirements which are sufficient to allow the determinations described in subsection (4) (A) of this rule to be made.7

Auth: section 203.050 RSMo (1975). Original rule filed March 15, 1979, effective November 11, 1979.

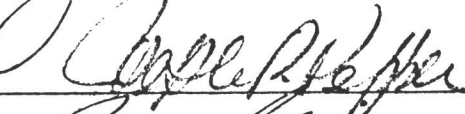
Rule 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions;  
Air Quality Standards, Definitions, and Reference Methods for the  
State of Missouri; were adopted by the Missouri Air Conservation  
Commission on September 19, 1979.


  
Chairman

  
Vice-Chairman

  
Member

  
Member

  
Member

  
Member

  
Member

FILED

OCT 13 1979

*James R. ...*  
SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 2 - Air Quality Standards and

Air Pollution Control Regulations for the

Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-2.030 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 305), proposing the deletion of subsection (3)(D) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of subsection (3)(D), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (3)(D), is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of subsection (3)(D) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (3)(D) from Rule 10 CSR 10-2.030 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (3)(D) from 10 CSR 10-2.030 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.



Amendment to Rule 10 CSR 10-2.030, Restriction of Emission of Particulate Matter from Industrial Processes, Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, were adopted by the Missouri Air Conservation Commission on September 19, 1979.

James L. ... Chairman

... Vice-Chairman

Hugh Can Member

Jess Farmer Member

Robert L. ... Member

Darryl ... Member

... Member

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 2—Air Quality Standards and Air  
Pollution Control Regulations for the Kansas  
City Metropolitan Area

### PROPOSED AMENDMENT

**10 CSR 10-2.030 Restriction of Emission of Particulate Matter from Industrial Processes.** The Air Conservation Commission proposes to amend this rule by deleting subsection (3)(D).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

**10 CSR 10-2.030 Restriction of Emission of Particulate Matter from Industrial Processes**

#### (3) Exceptions

[(D) The provisions of this regulation (10 CSR 10-2.030) shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsections (3)(E) would now become subsection (3)(D).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 26, 1968, effective Jan. 5, 1969. Amended: Filed June 30, 1975, effective July 9, 1975. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

**10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes.** The Air Conservation Commission proposes to amend this rule by deleting subsection (5)(B).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

**10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes**

#### (5) Exceptions

[(B) The provisions of this regulation shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsection (5) (C) would now become subsection (5)(B).*

*Auth: section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977,*

FILED

OCT 15 1979

*James G. Thompson*  
SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 3 - Air Pollution Control Regulations

for the Outstate Missouri Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-3.050 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 305-306), proposing the deletion of subsection (5)(B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of subsection (5)(B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (5)(B), is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of subsection (5)(B) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (5)(B) from Rule 10 CSR 10-3.050 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (5)(B) from 10 CSR 10-3.050 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.





## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 2—Air Quality Standards and Air  
Pollution Control Regulations for the Kansas  
City Metropolitan Area

### PROPOSED AMENDMENT

10 CSR 10-2.030 Restriction of Emission of Particulate Matter from Industrial Processes. The Air Conservation Commission proposes to amend this rule by deleting subsection (3)(D).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-2.030 Restriction of Emission of Particulate Matter from Industrial Processes

#### (3) Exceptions

[(D) The provisions of this regulation (10 CSR 10-2.030) shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsections (3)(E) would now become subsection (3)(D).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 26, 1968, effective Jan. 5, 1969. Amended: Filed June 30, 1975, effective July 8, 1975. Amended: Filed March 15, 1979.*

*NOTICE OF PUBLIC HEARING: A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7700 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.*

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes. The Air Conservation Commission proposes to amend this rule by deleting subsection (5)(B).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes

#### (5) Exceptions

[(B) The provisions of this regulation shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsection (5) (C) would now become subsection (5)(B).*

*Auth: section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977,*

# Proposed Rulemaking

effective Feb. 11, 1978. Amended: Filed May 12, 1978, effective Oct. 12, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65101. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating. The Air Conservation Commission proposes to amend this rule by deleting section (6), and succeeding sections will be renumbered accordingly.

*PURPOSE:* This amendment will eliminate the provisions for exemption due to start-up, shut-down and malfunction of process or control equipment.

10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating

[(6) Compliance with the provisions of this regulation shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions, during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10,

1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants. The Air Conservation Commission proposes to amend this rule by deleting paragraph (5)(E)9.

*PURPOSE:* This amendment will eliminate the provision for exemption due to emergency conditions.

10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants

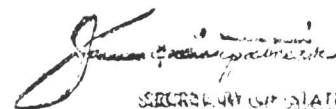
(5)(E)[9. During emergency conditions, provided the executive secretary is notified.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed Jan. 14, 1977, effective July 11, 1977. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of

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SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 3 - Air Pollution Control Regulations  
for the Outstate Missouri Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-3.060 is amended.


A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 306), proposing the deletion of section (6) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979

SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of section (6), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, section (6), is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of section (6) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of section (6) from Rule 10 CSR 10-3.060 was also adopted by the commission.

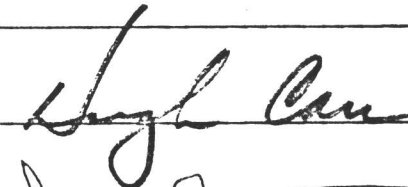
Accordingly, the commission hereby adopts the deletion of section (6) from 10 CSR 10-3.060 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

Amendment to Rule 10 CSR 10-3.060, Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating, Air Pollution Control Regulations for the Outstate Missouri Area, were adopted by the Missouri Air Conservation Commission on September 19, 1979.

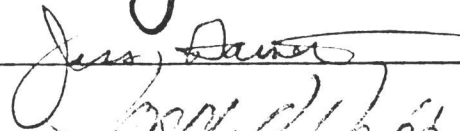


Chairman

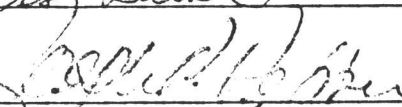
Vice-Chairman



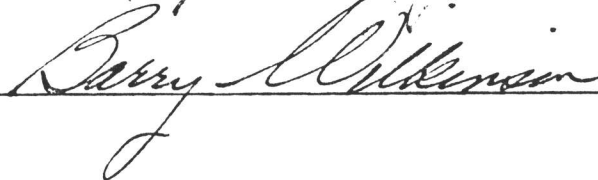
Member



Member



Member



Member

Member



# Proposed Rulemaking

effective Feb. 11, 1978. Amended: Filed May 12, 1978, effective Oct. 12, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65101. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating. The Air Conservation Commission proposes to amend this rule by deleting section (6), and succeeding sections will be renumbered accordingly.

*PURPOSE:* This amendment will eliminate the provisions for exemption due to start-up, shut-down and malfunction of process or control equipment.

10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating

[(6) Compliance with the provisions of this regulation shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions, during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971.  
*Amended:* Filed Jan. 31, 1972, effective Feb. 10,

1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants. The Air Conservation Commission proposes to amend this rule by deleting paragraph (5)(E)[9].

*PURPOSE:* This amendment will eliminate the provision for exemption due to emergency conditions.

10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants

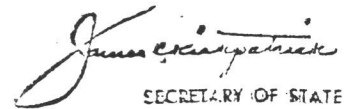
(5)(E)[9. During emergency conditions, provided the executive secretary is notified.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971.  
*Amended:* Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed Jan. 14, 1977, effective July 11, 1977. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of

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SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 3 - Air Pollution Control Regulations  
for the Outstate Missouri Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-3.080 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 306-307), proposing the deletion of paragraph (5)(E) 9. that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of paragraph (5)(E) 9., eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, paragraph (5)(E) 9., is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of paragraph (5)(E) 9. was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of paragraph (5)(E) 9. from Rule 10 CSR 10-3.080 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of paragraph (5)(E) 9. from 10 CSR 10-3.080 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.



# Proposed Rulemaking

effective Feb. 11, 1978. Amended: Filed May 12, 1978, effective Oct. 12, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65101. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

**10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.** The Air Conservation Commission proposes to amend this rule by deleting section (6), and succeeding sections will be renumbered accordingly.

*PURPOSE:* This amendment will eliminate the provisions for exemption due to start-up, shut-down and malfunction of process or control equipment.

**10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating**

[(6) Compliance with the provisions of this regulation shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions, during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10,

1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-761-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

**10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants.** The Air Conservation Commission proposes to amend this rule by deleting paragraph (5)(E)9.

*PURPOSE:* This amendment will eliminate the provision for exemption due to emergency conditions.

**10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants**

(5)(E)[9. During emergency conditions, provided the executive secretary is notified.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed Jan. 14, 1977, effective July 11, 1977. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of



comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area

### PROPOSED AMENDMENT

10 CSR 10-4.030 Restriction of Emission of Particulate Matter From Industrial Processes. The Air Conservation Commission proposes to amend this rule by deleting subsection (3)(B).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-4.030 Restriction of Emission of Particulate Matter From Industrial Processes

#### (3) Exceptions

[(B) The provisions of this regulation shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsection (3) (C) would now become subsection (3) (B).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quali-

ty, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area

### PROPOSED AMENDMENT

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating. The Air Conservation Commission proposes to amend this rule by deleting section (3).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating

[(3) Compliance with the provisions of this regulation (10 CSR 10-4.040) shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Editor's Note: Section (4) would now become section (3).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quali-

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*James E. ...*  
SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 4 - Air Quality Standards and

Air Pollution Control Regulations for

the Springfield-Greene County Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-4.030 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 307), proposing the deletion of subsection (3)(B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of subsection (3)(B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (3)(B), is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of subsection (3)(B) was contingent upon the passage of new rule 10 CSR 10-6.050.

Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (3)(B) from Rule 10 CSR 10-4.030 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (3)(B) from 10 CSR 10-4.030 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

*Paul Davis* Chairman  
*Hugh Can* Vice-Chairman  
*James Farnsworth* Member  
*Robert L. Phipps* Member  
*Samuel L. Wilkinson* Member  
Member

~~comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.~~

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area

### PROPOSED AMENDMENT

10 CSR 10-4.030 Restriction of Emission of Particulate Matter From Industrial Processes. The Air Conservation Commission proposes to amend this rule by deleting subsection (3)(B).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-4.030 Restriction of Emission of Particulate Matter From Industrial Processes

(3) Exceptions

[(B) The provisions of this regulation shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsection (3) (C) would now become subsection (3) (B).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality,

ty, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area

### PROPOSED AMENDMENT

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating. The Air Conservation Commission proposes to amend this rule by deleting section (3).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating

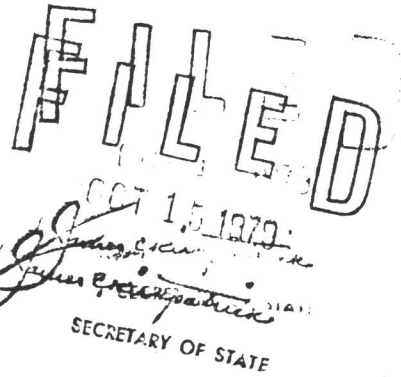
[(3) Compliance with the provisions of this regulation (10 CSR 10-4.040) shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Editor's Note: Section (4) would now become section (3).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality,





Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 4 - Air Quality Standards and

Air Pollution Control Regulations for the

Springfield-Greene County Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-4.040 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 307), proposing the deletion of section (3) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979.

SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of section (3), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

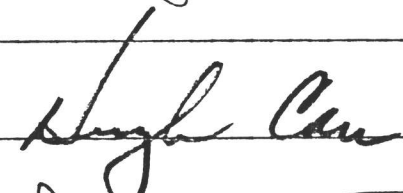
The existing rule for malfunction conditions, section (3), is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of section (3) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of section (3) from Rule 10 CSR 10-4.040 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of section (3) from 10 CSR 10-4.040 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

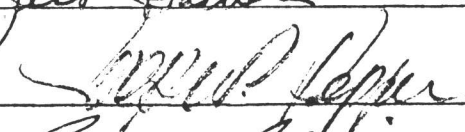
Amendment to Rule 10 CSR 10-4.040, Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating, Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area, were adopted by the Missouri Air Conservation Commission on September 19, 1979.

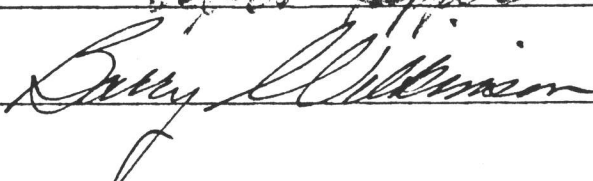
  
\_\_\_\_\_ Chairman

\_\_\_\_\_  
\_\_\_\_\_ Vice-Chairman

  
\_\_\_\_\_ Member

  
\_\_\_\_\_ Member

  
\_\_\_\_\_ Member

  
\_\_\_\_\_ Member

\_\_\_\_\_  
\_\_\_\_\_ Member

comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for  
Springfield-Greene County Area

### PROPOSED AMENDMENT

10 CSR 10-4.030 Restriction of Emission of Particulate Matter From Industrial Processes. The Air Conservation Commission proposes to amend this rule by deleting subsection (3)(B).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-4.030 Restriction of Emission of Particulate Matter From Industrial Processes

#### (3) Exceptions

[(B) The provisions of this regulation shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

*Editor's Note: Subsection (3) (C) would now become subsection (3) (B).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality,

Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for  
Springfield-Greene County Area

### PROPOSED AMENDMENT

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating. The Air Conservation Commission proposes to amend this rule by deleting section (3).

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating

[(3) Compliance with the provisions of this regulation (10 CSR 10-4.040) shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Editor's Note: Section (4) would now become section (3).*

*Auth: section 203.050 RSMo (1975). Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality,

# Proposed Rulemaking

ty, Department of Natural Resources, P. O. Box  
1368, Jefferson City, Mo. 65102. Telephone 314-  
751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air  
Pollution Control Regulations for the St. Louis  
Metropolitan Area

### PROPOSED AMENDMENTS

**10 CSR 10-5.050 Restriction of Emission of Particulate Matter from Industrial Processes.** The Air Conservation Commission proposes to amend this rule by deleting subsections (3)(A) and (B), and renumbering succeeding subsections accordingly.

*PURPOSE: This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.*

**10 CSR 10-5.050 Restriction of Emission of Particulate Matter from Industrial Processes**

(3)[(A) When building a new fire,]

[(B) During the startup, an operational breakdown, or while cleaning air pollution control equipment for any process.]

*Auth: section 203.050 RSMo (1975). Original rule filed March 14, 1967, effective March 24, 1967. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed March 15, 1979.*

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions,  
and Reference Methods for the State of  
Missouri

### PROPOSED AMENDMENTS

**10 CSR 10-6.020 Definitions.** The Air Conservation Commission proposes to delete paragraphs (2)(M)7., (2)(S)8., and (2)(S)10. and to add paragraphs (2)(E)6., (2)(M)7., (2)(S)8., and (2)(S)10.

*PURPOSE: The addition of paragraphs (2)(E)6., (2)(M)7., (2)(S)8., and (2)(S)10. defines key expressions used in chapters one through six.*

**10 CSR 10-6.020 Definitions**

(2) Definitions

(E) All terms beginning with "E":

**6. Excess emissions—emissions which exceed the requirements of any applicable emission control regulation.**

(M) All terms beginning with "M":

**7. Malfunction—[any sudden and unavoidable failure of air pollution control equipment or process equipment or failure of a process to operate in a normal or usual manner, but failures that are caused entirely by poor maintenance, careless operation or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.] a condition that has been determined by the director to be a sudden and unavoidable failure of air pollution control equipment or process equipment to operate in a normal and usual manner.**

(S) All terms beginning with "S":

**8. Start-up—[the setting in operation of a source for any purpose.] the setting into operation of any air pollution control equipment or process equipment.**

**10. Shutdown—[the cessation of operation of any source for any purpose.] the cessation of operation of any air pollution control equipment or process equipment.**

*Auth: section 203.050 RSMo (1975). Original rule filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed Feb. 27, 1978, effective Dec. 11, 1978. Amended: Filed Aug. 11, 1978, effective Apr. 12, 1979. Amended: Filed Nov. 14, 1978.*

FILED

OCT 15 1979

*James E. Simpson*  
SECRETARY OF STATE

Title 10 - DEPARTMENT OF NATURAL RESOURCES

Division 10 - Air Conservation Commission

Chapter 5 - Air Quality Standards and

Air Pollution Control Regulations for the

St. Louis Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-5.050 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 308), proposing the deletion of subsections (3)(A) and (B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 Register was adopted by the commission and will become effective November 11, 1979.



SUMMARY OF PUBLIC COMMENT: One commentor was against the deletion of subsections (3)(A) and (B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

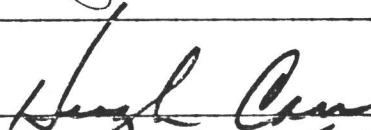
The existing rule for malfunction conditions, subsections (3)(A) and (B), is unapprovable for a State Implementation Plan because it contains specific non-discretionary exemptions. Deletion of subsections (3)(A) and (B) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsections (3)(A) and (B) from Rule 10 CSR 10-5.050 was also adopted by the commission.

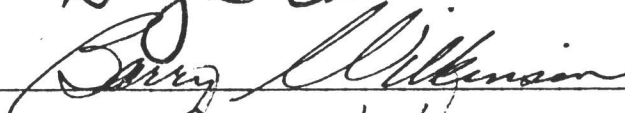
Accordingly, the commission hereby adopts the deletion of subsections (3)(A) and (B) from 10 CSR 10-5.050 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

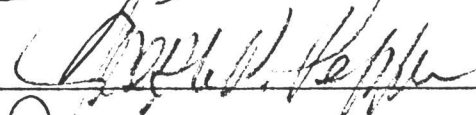
Amendment to Rule 10 CSR 10-5.050, Restriction of Emission of Particulate Matter from Industrial Processes, Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area, were adopted by the Missouri Air Conservation Commission on September 19, 1979.

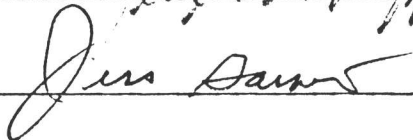
  
\_\_\_\_\_ Chairman

\_\_\_\_\_  
\_\_\_\_\_ Vice-Chairman

  
\_\_\_\_\_ Member

  
\_\_\_\_\_ Member

  
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# Missouri Register

all the pertinent information.

## (13) Death, Disability, and Bankruptcy

(B) In the event a student borrower becomes totally and permanently disabled, the obligation of the borrower to make any further payment of principal and interest will be cancelled immediately upon approval of a disability request sent to the U.S. Office of Education by the lender. The borrower, or his/her representative, must make certain documentation available to the lender in order to facilitate this processing. The [appropriate] appropriate documents necessary for filing a disability claim can be obtained upon request from MGSLP. Any comaker is also relieved of any obligation by the permanent and total disability of the student borrower.

## (14) Claims Administration

(B) If, after exercising due diligence procedures, the student remains delinquent or fails to convert to repayment status, the lender should:

2. Complete a notice of default [.] (FORM MGL-07) [.] and send it with the promissory note(s), loan application(s), and other relevant documentation to the MGSLP.

## (15) Transfers of MGSLP Loans

(A) Lenders may normally sell or otherwise transfer MGSLP loans only to other eligible lenders holding a MGSLP agreement to guarantee loans [.] (FORM MGL-10). Transfers to other eligible lenders not holding a MGSLP agreement to guarantee loans requires prior written approval of MGSLP. MGSLP must be notified of the assignment where the right to receive interest benefits or special allowance has been assigned. There is no need to notify MGSLP of a pledge of a note if the right to receive payments has not been assigned. The student must also be notified in the case where the right to receive payments has been assigned.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsec-

tion 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

### 10 CSR 10-2.030 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 305), proposing the deletion of subsection (3)(D) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continues on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of subsection (3)(D), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (3)(D), is unworkable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of subsection (3)(D) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (3)(D) from rule 10 CSR 10-2.030 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (3)(D) from 10 CSR 10-2.030 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations for the Outstate Missouri Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the com-

# Orders of Rulemaking

mission hereby amends a rule of the Missouri Air Conservation Commission as follows:

## 10 CSR 10-3.050 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 305, 306), proposing the deletion of subsection (5)(B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of subsection (5)(B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (5)(B), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of subsection (5)(B) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (5)(B) from rule 10 CSR 10-3.050 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (5)(B) from 10 CSR 10-3.050 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

### Division 10—Air Conservation Commission Chapter 3—Air Pollution Control Regulations for the Outstate Missouri Area

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

## 10 CSR 10-3.060 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 306), proposing the deletion of section (6) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of section (6), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, section (6), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of section (6) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of section (6) from rule 10 CSR 10-3.060 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of section (6) from 10 CSR 10-3.060 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.



## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations for  
the Outstate Missouri Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-3.080 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 306, 307), proposing the deletion of paragraph (5)(E)9. that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of paragraph (5)(E)9., eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, paragraph (5)(E)9., is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of paragraph (5)(E)9. was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of paragraph (5)(E)9. from rule 10 CSR 10-3.080 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of paragraph (5)(E)9. from 10 CSR 10-3.080 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air  
Pollution Control Regulations for the Springfield-  
Greene County Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050 RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-4.030 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 307), proposing the deletion of subsection (3)(B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of subsection (3)(B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (3)(B), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of subsection (3)(B) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (3)(B) from rule 10 CSR 10-4.030 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (3)(B) from 10 CSR 10-4.030 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

# Orders of Rulemaking

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 4—Air Quality Standards and Air  
Pollution Control Regulations for the Springfield-  
Greene County Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-4.040 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 307, 308), proposing the deletion of section (3) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of section (3), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, section (3), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of section (3) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of section (3) from rule 10 CSR 10-4.040 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of section (3) from 10 CSR 10-4.040 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air  
Pollution Control Regulations for the St. Louis  
Metropolitan Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-5.050 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 308), proposing the deletion of subsections (3)(A) and (B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of subsections (3)(A) and (B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsections (3)(A) and (B), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of subsections (3)(A) and (B) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsections (3)(A) and (B) from rule 10 CSR 10-5.050 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsections (3)(A) and (B) from 10 CSR 10-5.050 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.



## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions,  
and Reference Methods for the State of Missouri

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-6.020 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 308, 309), proposing the addition of paragraphs (2)(E)6., (2)(M)7., (2)(S)8., and (2)(S)10. defining key expressions used in chapters one through six. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the additions, under consideration, the additions as printed in the April 2, 1979 register, and amendments as a result of public hearing, were adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** The amendments are to define key expressions used in chapters one through six.

The commission has amended the proposed "malfunction" definition in the following way to encourage the redesigning of defects instead of allowing the broken parts to be continually replaced:

7. Malfunction—a sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal and usual manner; excess emissions caused by improper design shall not be deemed a malfunction.

To clearly show that if a process requires the routine start-up of a component piece of equipment, the control equipment should be sufficiently designed and maintained to handle such periods of increased emissions, a phrase was added to the start-up definition:

8. Start-up—the setting into operation of any air pollution control equipment or process equipment [..], except the routine phasing in of process equipment.

To clearly show that if a process requires the rou-

tine shutdown of a component piece of equipment, the control equipment should be sufficiently designed and maintained to handle such periods of increased emissions, a phrase was added to the shutdown definition:

10. Shutdown—the cessation of operation of any air pollution control equipment or process equipment [..], except the routine phasing out of process equipment.

Accordingly, the amendments to 10 CSR 10-6.020, as proposed in the April 2, 1979 Missouri Register, along with the following revisions, will become effective November 11, 1979.

### 10 CSR 10-6.020 Definitions

#### (2) Definitions

(E) All terms beginning with "E":

6. Excess emissions—emissions which exceed requirements of any applicable emission control regulation.

(M) All terms beginning with "M":

7. Malfunction—[a condition that has been determined by the director to be] a sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal and usual manner. Excess emissions caused by improper design shall not be deemed a malfunction.

(S) All terms beginning with "S":

8. Start-up—the setting into operation of any air pollution control equipment or process equipment [..], except the routine phasing in of process equipment.

10. Shutdown—the cessation of operation of any air pollution control equipment or process equipment [..], except the routine phasing out of process equipment.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 6—Air Quality Standards, Definitions,  
and Reference Methods for the State of Missouri

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby adopts a rule of the Missouri Air Conservation Commission as follows:

# Orders of Rulemaking

10 CSR 10-6.050 is adopted.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 309, 310), to provide owners or operators of an installation the opportunity to submit data regarding conditions which result in excess emissions due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed rule, under consideration, rule 10 CSR 10-6.050 was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** A number of complaints were made, especially by representatives of the cement industry, that they would not be able to start-up without being in violation. The commission's response to these complaints was that if the excess emissions are the result of a true start-up condition and if the start-up is performed in a manner which minimizes the extent and duration of the excess emissions, enforcement discretion will be exercised.

Comments were received concerning the unreasonable burden of paperwork that would be imposed on the cement industry as start-ups and shutdowns occur many times during the day. Most commentors stated that reports of this kind would require the hiring of an extra engineer and secretary. One commentor stated that the proposed rule will only add more paperwork, with little improvement on air quality in Missouri. One commentor stated a phone call should suffice instead of the report. Yet, another commentor felt reporting on a quarterly or semi-annual basis would be feasible. The commission responded to these comments by dropping the requirement that industry report on themselves whenever excess emissions occurred. Instead, reporting has been limited to those periods of excess emissions which are observed by state and local air pollution regulatory personnel.

One commentor observed that an exact measurement of the excess emissions would not be feasible. The commission agreed with the commentor and has taken care of this paragraph (1)(B)7. with the inclusion of wording which requires "a best estimate of the magnitude of the excess emissions".

A comment was made that the requirement to report excess emissions within 48 hours of the beginning of such emissions would be extremely difficult, especially where weekends and holidays are concerned. The 48-hour requirement was dropped by the

commission with the passage of subsection (1)(C) requiring that reports be submitted within 15 days after the receipt of a notice of excess emissions.

It was commented that for the company submitting the reports it would no longer become a factual document, but a document proving their innocence. The criteria to be evaluated in reaching a determination would be open to interpretation as to what is reasonable, avoidable, practical, or the result of poor performance, careless operation or even a threat to public health or ambient air quality. Each of these are judgment factors and not clearly measurable. It was felt that the entire section, as written, would require that all reports be submitted by attorneys, since the reports are the basis for the determination of enforcement action. This problem has been alleviated with the deletion of sections (2) and (3) and the adoption of subsection (1)(B), paragraphs, 1.-9.

Another commentor stated that if a source adequately reports an upset or malfunction, it should not be considered a violation. He saw the proposed rule as unenforceable, since most sources would have no incentive to report the occurrences of excess emissions. Industry is no longer required to report on itself with the deletion of sections (2) and (3) by the commission.

One commentor felt the present proposal implied, but falls short of, a statement policy which allows the director or commission to determine that excess emissions are, in fact, subject to suspension during periods of start-up, shutdown, or malfunction. The commentor felt a statement should be added at the beginning of section (1) to read "Standards of Performance are suspended during periods of start-up, shutdown, and malfunction. Operators are required to minimize emissions to the extent possible during such periods and to report excess emissions and actions taken". This statement would clarify the intent that the commission or director has the authority not only to enforce action, but to forego enforcement action when it is determined, in the judgment of the commission or director, that the start-up, shutdown, or malfunction was truly the result of the nature of the process with good faith effort being put forth by the operator of the source to minimize the emissions. The commission has concluded that such a statement of automatic non-discretionary enforcement cannot be in the rule since approval of the state implementation plan is desired. Furthermore, the commission felt that the intent, as it pertains to discretionary enforcement, is clearly stated in the rule.

Accordingly, 10 CSR 10-6.050, as printed in the April 2, 1979 Missouri Register, along with the changes adopted by the Air Conservation Commis-



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sion, will become effective November 11, 1979. 10 CSR 10-6.050 is printed below in its entirety:

## 10 CSR 10-6.050, Start-up, Shutdown, and Malfunction Conditions

*PURPOSE: This rule, applicable to all installations in the state of Missouri, provides the owner or operator of an installation the opportunity to submit data regarding conditions which resulted in excess emissions. These submittals will be used by the director to determine whether the excess emissions were due to a start-up, shutdown or malfunction condition. Such determinations will be the basis for further enforcement action.*

### (1) General Provisions

[(A) Operations of any source during periods of start-up, shutdown, or malfunction shall not constitute representative conditions for the purpose of compliance testing.]

(A) Upon receipt of a notice of excess emissions issued by the Missouri Department of Natural Resources or an agency holding a certificate of authority under section 203.140, RSMo., the source to which the notice is issued may provide information showing that the excess emissions were the consequence of a malfunction, start-up, or shutdown. Based upon any information submitted by the source operator, and any other pertinent information available, the director or the commission shall make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown, and whether the nature, extent and duration of the excess emissions warrant enforcement action under sections 203.080 or 203.151, RSMo. In determining whether enforcement action is warranted, the director or commission shall consider the following factors:

1. Whether the excess emissions during start-up, shutdown or malfunction, occurred as a result of safety, technological or operating constraints of the control equipment, process equipment, or process;

2. Whether the air pollution control equipment, process equipment, or processes were, at all times, maintained and operated to the maximum extent practical, in a manner consistent with good practice for minimizing emissions;

3. Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring;

4. Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of such emissions; and

5. Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality.

[(B) Nothing in this rule shall be construed to limit the obligation of an installation to attain and maintain the national ambient air quality standards, nor to limit the authority of the director to take appropriate enforcement action whenever attainment or maintenance of national ambient air quality standards is threatened or whenever the public health is endangered.]

(B) The information provided by the source operator under subsection (1)(A) shall include, at a minimum, the following:

1. Name and location of installation;
2. Name and telephone number of person responsible for the installation;
3. The identity of the equipment causing the excess emissions;
4. The time and duration of the period of excess emissions;
5. The cause of the excess emissions;
6. The type of air contaminant involved;
7. A best estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and calculations used in estimating the magnitude;
8. The measures taken to mitigate the extent and duration of the excess emissions; and
9. The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

(C) The information specified in subsection (1)(B) shall be submitted to the director not later than fifteen (15) days after receipt of the notice of excess emissions.

(D) Nothing in this regulation shall be construed to limit the authority of the director or the commission to take appropriate action under sections 203.080, 203.090 and 203.151, RSMo., to enforce the provisions of the Air Conservation Law and the regulations promulgated thereunder.

### [(2) Planned Start-up and Shutdown Reporting]

[(A) The owner or operator of an installation subject to this rule shall notify the director, in writing, whenever a planned start-up or shutdown may result in excess emissions. This notice shall be mailed no

# Orders of Rulemaking

later than ten (10) days prior to such action, and shall include, but not be limited to, the following information:]

- [1. Name and location of the installation;]
- [2. Name and telephone number of person responsible for the installation;]
- [3. The identity of the equipment which may cause excess emissions;]
- [4. Reasons for proposed shutdown or start-up;]
- [5. Duration of anticipated period of excess emissions;]
- [6. Date and time of proposed shutdown or start-up;]
- [7. Physical and chemical composition of pollutants whose emissions are affected by the action;]
- [8. Methods, operating data, and/or calculations used to determine these emissions;]
- [9. Quantification of emissions during such action in the units of the applicable emissions control regulation;]
- [10. All measures planned to minimize the extent and duration of excess emissions during the shutdown and ensuring start-up.]

[(3) Malfunction and Unplanned Shutdown Reporting]

[(A) The owner or operator of an installation subject to this rule shall notify the director, in writing, whenever emissions due to malfunctions, unplanned shutdowns or ensuing start-ups are, or may be, in excess of applicable emission control regulations. Such notification shall be mailed within forty-eight (48) hours of the beginning of each period of excess emissions, and shall include, but not be limited to, the following information:]

- [1. Name and location of installation;]
- [2. Name and telephone number of person responsible for the installation;]
- [3. The identity of the equipment causing the excess emissions;]
- [4. The time and duration of the period of excess emissions;]
- [5. Physical and chemical composition of the subject pollutants;]
- [6. Quantification of emissions from all sources in violation, in units of the applicable emission control regulation;]
- [7. Methods, operating data, and/or calculation used to determine these emissions;]
- [8. Steps taken to minimize the extent and duration of the excess emission and their effect on air quality during the period of excess emissions;]
- [9. Steps taken to remedy the situation which caused the violation, and the steps taken or planned

to prevent the recurrence of such situations;]

[10. Meteorological conditions in effect at the time of the violation.]

[(4) Enforcement Action]

[(A) The director shall make a determination of whether or not a malfunction did occur and what, if any, enforcement action should be taken when excess emissions are caused by start-up, shutdown, or malfunction conditions. This determination will incorporate consideration of the following requirements:]

[1. All notification requirements of the rule have been met;]

[2. The malfunction, shutdown, or start-up did not result entirely or in part from poor maintenance, careless operation, or any other preventable upset conditions or equipment breakdowns;]

[3. All reasonable steps were taken to correct, as expeditiously as practicable, the conditions causing the excess emissions, including the use of off-shift labor and overtime if necessary;]

[4. All reasonable steps were taken to minimize the emissions and their effect on air quality;]

[5. The malfunction or shutdown is not part of a recurring pattern indicative of inadequate design, operation, or maintenance;]

[6. The excess emissions are not a threat to public health or ambient air quality.]

[(B) If the director determines that the reporting requirements of sections (2) and/or (3) of this rule are inappropriate to a particular installation, he may establish other reporting requirements which are sufficient to allow the determinations described in subsection (4)(A) of this rule to be made.]

## Title 11—DEPARTMENT OF PUBLIC SAFETY

Division 50—Missouri State Highway Patrol  
Chapter 2—Motor Vehicle Inspection Section

### ORDER OF RULEMAKING

By the authority vested in the superintendent of the Missouri State Highway Patrol under section 307.360, RSMo (1978), the superintendent of the Highway Patrol hereby amends the rules of the Motor Vehicle Inspection Section as follows:

- 11 CSR 50-1.010 is amended.
- 11 CSR 50-2.020 is amended.
- 11 CSR 50-2.050 is amended.
- 11 CSR 50-2.140 is amended.
- 11 CSR 50-2.150 is amended.

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**FISCAL NOTE:** The Director of the Department of Mental Health estimates that the following private contractors will be affected by this proposed rule in the given numbers: individuals, 100; nursing homes, 550; mental health agencies (including mental illness, mental retardation—developmental disabilities, and alcoholism drug abuse), 400. The director further estimates the aggregate cost of compliance with this rule by the enumerated entities to be \$650 for the period June 11, 1979 through June 30, 1979, and \$7,500 for the period July 1, 1979 through June 30, 1980.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rulemaking at the Department of Mental Health, 2002 Missouri Boulevard, P.O. Box 687, Jefferson City, Missouri 65102. To be considered, comments must be received within 30 days after publication of this notice in the Missouri Register. No public hearing is scheduled.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area

### PROPOSED AMENDMENT

**10 CSR 10-2.030 Restriction of Emission of Particulate Matter from Industrial Processes.** The Air Conservation Commission proposes to amend this rule by deleting subsection (3)(D).

**PURPOSE:** This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.

**10 CSR 10-2.030 Restriction of Emission of Particulate Matter from Industrial Processes**

#### (3) Exceptions

[(D) The provisions of this regulation (10 CSR 10-2.030) shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

**Editor's Note:** Subsections (3)(E) would now become subsection (3)(D).

**Auth:** section 203.050 RSMo (1975). Original rule filed Dec. 26, 1968, effective Jan. 5, 1969. Amended: Filed June 30, 1975, effective July 9, 1975. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations for the Outstate Missouri Area

### PROPOSED AMENDMENT

**10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes.** The Air Conservation Commission proposes to amend this rule by deleting subsection (5)(B).

**PURPOSE:** This amendment will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment.

**10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes**

#### (5) Exceptions

[(B) The provisions of this regulation shall not apply to a process during periods when a new fire is being built, during the start-up of the operation, during an operational breakdown, or while air pollution control equipment is being cleaned or repaired.]

**Editor's Note:** Subsection (5) (C) would now become subsection (5)(B).

**Auth:** section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971. Amended: Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977.



effective Feb. 11, 1978. Amended: Filed May 12, 1978, effective Oct. 12, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65101. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

**10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.** The Air Conservation Commission proposes to amend this rule by deleting section (6), and succeeding sections will be renumbered accordingly.

*PURPOSE:* This amendment will eliminate the provisions for exemption due to start-up, shut-down and malfunction of process or control equipment.

**10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating**

[(6) Compliance with the provisions of this regulation shall not be determined during periods when a new fire is being built, during start-up, change of load, fuel or other operating conditions, during an operational breakdown or other emergency conditions, while air pollution control equipment is being cleaned or repaired, or during soot-blowing, but shall be determined during steady-state conditions.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971.  
*Amended:* Filed Jan. 31, 1972, effective Feb. 10,

1972. Amended: Filed June 30, 1975, effective July 10, 1975. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of comments in favor of or in opposition to this proposed amendment, contact Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, Division of Environmental Quality, Department of Natural Resources, P. O. Box 1368, Jefferson City, Mo. 65102. Telephone 314-751-3241.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations  
for the Outstate Missouri Area

### PROPOSED AMENDMENT

**10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants.** The Air Conservation Commission proposes to amend this rule by deleting paragraph (5)(E)9.

*PURPOSE:* This amendment will eliminate the provision for exemption due to emergency conditions.

**10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants**

(5)(E)[9. During emergency conditions, provided the executive secretary is notified.]

*Auth:* section 203.050 RSMo (1975). Original rule filed March 24, 1971, effective April 3, 1971.  
*Amended:* Filed Jan. 31, 1972, effective Feb. 10, 1972. Amended: Filed Jan. 14, 1977, effective July 11, 1977. Amended: Filed Aug. 16, 1977, effective Feb. 11, 1978. Amended: Filed March 15, 1979.

**NOTICE OF PUBLIC HEARING:** A public hearing on the proposed amendment is scheduled for May 23, 1979 at 8:30 a.m. at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Mo. For additional information, or submission of

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# Orders of Rulemaking

mission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-3.050 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 305, 306), proposing the deletion of subsection (5)(B) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of subsection (5)(B), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, subsection (5)(B), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of subsection (5)(B) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of subsection (5)(B) from rule 10 CSR 10-3.050 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of subsection (5)(B) from 10 CSR 10-3.050 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

## Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission  
Chapter 3—Air Pollution Control Regulations for the Outstate Missouri Area

### ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under chapter 203, section 203.050, RSMo (Supp. 1975) and section 10, subsection 3, Omnibus Reorganization Act of 1974, the commission hereby amends a rule of the Missouri Air Conservation Commission as follows:

10 CSR 10-3.060 is amended.

A Notice of Proposed Rulemaking was published in the Missouri Register on April 2, 1979 (4 MoReg 306), proposing the deletion of section (6) that will eliminate the provision for exemption due to start-up, shutdown and malfunction of process or control equipment. A public hearing was held on May 23, 1979 and continued on June 20, 1979 and August 15, 1979. After taking all comments, with respect to the proposed deletion, under consideration, the deletion as printed in the April 2, 1979 register was adopted by the commission and will become effective November 11, 1979.

**SUMMARY OF PUBLIC COMMENT:** One commentator was against the deletion of section (6), eliminating the provision for exemption due to start-up, shutdown, and malfunction of processes or equipment, and adopting a new rule, 10 CSR 10-6.050, "Start-up, Shutdown, and Malfunction Conditions," to apply statewide.

The existing rule for malfunction conditions, section (6), is unapprovable for a state implementation plan because it contains specific non-discretionary exemptions. Deletion of section (6) was contingent upon the passage of new rule 10 CSR 10-6.050. Therefore, since the commission has adopted this new rule (appearing in this register as an Order of Rulemaking), deletion of section (6) from rule 10 CSR 10-3.060 was also adopted by the commission.

Accordingly, the commission hereby adopts the deletion of section (6) from 10 CSR 10-3.060 as proposed in the April 2, 1979 Missouri Register. This deletion will become effective November 11, 1979.

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July 10, 1979

Mr. James P. Odendahl, P.E.  
Director  
Division of Environmental Quality  
P. O. Box 1368  
Jefferson City, Missouri 65101

Attention: Robert J. Schreiber, Jr., P.E.  
Staff Director  
Air Quality Program

Dear Mr. Odendahl:

This letter is in response to Mr. Michael Stafford's May 15, 1979, inquiry regarding requirements for malfunctions and breakdown regulations.

There are two basic requirements that revised malfunction regulations must meet to be approvable by the Environmental Protection Agency. All emissions in excess of allowable emission rate must be considered violations. There must be an allowance for discretion on the part of the control officer whether or not to take an enforcement action, when excessive emissions are reported as found by an inspection. There should be no automatic exemptions for any excess emissions.

The manual for the Non-Attainment Area Workshop on page 231 talks about phasing in and phasing out, routine maintenance, etc., as they relate to excess emissions. Startup and shutdown are operation conditions which may be considered, when a determination whether or not an enforcement action is necessary or appropriate.

A question has been raised regarding allowance or exemptions for startup, shutdown, and malfunction in the New Source Performance Standards, i.e., why is it allowed under New Source Performance Standards and not the State Implementation Plan. The performance tests under 40 CFR 60.8(c) refers to the initial startup conditions during which time the source is attempting to demonstrate compliance with the standard. Visible emissions are exempted under 40 CFR 60.11 under the same circumstances. Under

## CONCURRENCES

SYMBOL	RJC	TDG	ASUP	ENFC	CMSL			
SURNAME	<i>PR</i>	<i>TDG</i>	<i>ASUP</i>	<i>ENFC</i>	<i>RPP</i>			
DATE	7/10/79	7/16/79	7/16/79	7-16-79	7-16-79			



40 CFR 60.11(e)(4) the Administrator may establish a visible emission limit for a specific plant. The exemptions in the New Source Performance Standards are not continuous.

The New Source Performance Standards are based upon technology, while State Implementation Plans are based upon meeting health related criteria. In some of the non-attainment areas it may be necessary to force technology in order to protect human health.

I hope this answers your questions, and if we may be of further assistance in this or other matters, contact me at any time.

Sincerely yours,

William A. Spratlin, Jr., P.E.  
Chief, Air Support Branch  
Air and Hazardous Materials Division

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Ex # 1 MO-18

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NOTICE OF PUBLIC HEARING

May 23 and 24, 1979

SIP Draft

\* Columbia Daily Tribune  
Columbia, Missouri 65201

Kansas City Star  
18th and Grand  
Kansas City, Missouri 64108

St. Louis Globe-Democrat  
12th and Delmar, P. O. Box 14116  
St. Louis, Missouri 63150

St. Joseph News-Press  
P. O. Box 29  
St. Joseph, Missouri 64502

Mexico Ledger  
300 North Washington  
Mexico, Missouri 65265

St. Louis Post-Dispatch  
1133 Franklin Avenue  
St. Louis, Missouri 63101

\* Notice published, affidavit  
not received in time for hearing.

Malfunction  
Reg.

FILE COPY  
AFFIDAVIT OF PUBLICATION

STATE OF MISSOURI )

County of Boone )

ss.

NOTICE OF PUBLIC HEARING  
DEPARTMENT OF NATURAL RESOURCES  
Division of Environmental Quality  
AIR CONSERVATION COMMISSION

The Missouri Air Conservation Commission will hold two public hearings under the provisions of Chapter 203, RSMo., Suppl. 1975. The first hearing will be held May 23, 1979 at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Missouri, beginning at 8:30 a.m. The purpose of the hearing will be to hear testimony relating to:

1. Proposed amendments to 10 CSR 10-2.030, 10 CSR 10-3.050, 10 CSR 10-4.030, and 10 CSR 10-5.050, all entitled Restriction of Emission of Particulate Matter from Industrial Processes.
2. Proposed amendments to 10 CSR 10-3.060 and 10 CSR 10-4.040, both entitled Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating.
3. Proposed amendment to 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants.
4. Proposed amendments to 10 CSR 10-6.020, Definitions.
5. Proposed Rule 10 CSR 10-6.050, Start-Up, Shutdown, and Malfunction Conditions; and
6. Proposed revisions to the St. Louis portion of Missouri's State Implementation Plan.

The second hearing will be May 24, 1979 at the Ramada Inn, 7301 N.W. Tiffany Springs Road, Kansas City, Missouri, beginning at 8:30 a.m., and will be held to hear testimony relating to proposed revisions for the Kansas City, Columbia and New Mexico portions of Missouri's State Implementation Plan.

Information concerning the revisions to the State Implementation Plan and proposed amendments and rule as printed in the Missouri Register, Volume 4, Number 4, April 2, 1979, pages 305-310, may be obtained from Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, P.O. Box 1368, Jefferson City, Missouri 65102. Opportunity to be heard will be afforded to any interested person upon written request to the Commission, addressed to Mr. Schreiber at the above address. Written request to be heard must be made not later than seven (7) days prior to the hearing. Any interested person, whether or not heard, may submit within seven (7) days subsequent to the hearing, a written statement of his views, addressed to Mr. Schreiber.

Insertion: April 23, 1979

I, Jackie Holmes, being duly sworn according to law, state that I am one of the publishers of the Columbia Daily Tribune, a daily newspaper of general circulation in the County of Boone where located; which has been admitted to the Post Office as second class matter in the City of Columbia, Missouri, the city of publication; which newspaper has been published regularly and consecutively for a period of three years and has a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provision of Section 493.050, Revised Statutes of Missouri, 1949. The affixed notice appeared in said newspaper on the following consecutive issues:

1st Insertion,	19
2nd Insertion,	19
3rd Insertion,	19
4th Insertion,	19
5th Insertion,	19
6th Insertion,	19
7th Insertion,	19
8th Insertion,	19
9th Insertion,	19
10th Insertion,	19
11th Insertion,	19
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14th Insertion,	19
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16th Insertion,	19
17th Insertion,	19
18th Insertion,	19
19th Insertion,	19
20th Insertion,	19

PRINTER'S FEE.....  
TRIBUNE PUBLISHING COMPANY

By Jackie Holmes

Subscribed and sworn to before me this 29<sup>th</sup> day of

May, 1979  
Lisa P. Villalobos  
Notary Public

My Commission Expires .....

LISA P. VILLALOBOS, NOTARY PUBLIC  
STATE OF MISSOURI, BOONE COUNTY  
MY COMMISSION EXPIRES APRIL 19, 1983

# AFFIDAVIT OF PUBLICATION

W.T. Craig

of the City of Kansas City, Missouri, of lawful age, being

duly sworn, says that he is Assistant Controller of THE KANSAS CITY STAR

COMPANY, publishers of THE KANSAS CITY STAR and THE KANSAS CITY TIMES, a news-

paper published daily in the city of Kansas City, Jackson County, Missouri, and that the

Public Notice

of Mo. Dept. of Natural Resources

a true copy of which is hereto attached, was duly published in the Evening

editions of said newspaper for the period of One (1) Issue

commencing April 23, 1979 and ending April 23, 1979

on the following dates (STAR) April 23

RECEIVED

MAY 7 1979

AIR POLLUTION CONTROL PROGRAM

(TIMES)

the same being published in Nos. (STAR) #187

(TIMES)

of Volume {TIMES  
STAR No. 99} of Said Newspaper

Subscribed and sworn to before

day of May 1979

was duly qualified as a Notary Public.

My commission expires May 25, 1981

Notary Public, Jackson County, Missouri.

FILE COPY

## NOTICE OF PUBLIC HEARING DEPARTMENT OF NATURAL RESOURCES Division of Environmental Quality AIR CONSERVATION COMMISSION

The Missouri Air Conservation Commission will hold two public hearings under the provisions of Chapter 203, RSMo, Suppl. 1975. The first hearing will be held May 23, 1979 at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Missouri, beginning at 8:30 a.m. The purpose of the hearing will be to hear testimony relating to:

1. Proposed amendments to the 10 CSR 10-2.030, 10 CSR 10-3.050, 10 CSR 10-4.030, and 10 CSR 10-5.050, all entitled Restriction of Emission of Particulate Matter from Industrial Processes;
2. Proposed amendments to 10 CSR 10-3.060 and 10 CSR 10-4.040, both entitled Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating;
3. Proposed amendment to 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants;
4. Proposed amendments to 10 CSR 10-6.020, Definitions;
5. Proposed Rule 10 CSR 10-6.050, Start-Up, Shutdown, and Malfunction Conditions; and
6. Proposed revisions to the St. Louis portion of Missouri's State Implementation Plan.

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# AFFIDAVIT OF PUBLICATION

—IN THE—

## ST. LOUIS POST-DISPATCH

STATE OF MISSOURI } ss.  
CITY OF ST. LOUIS }

RECEIVED  
MAY 9 1979  
AIR POLLUTION CONTROL  
PROGRAM

Personally appeared before the undersigned, a Notary Public within and for the City and State afore-  
said, K. Vance, who being duly sworn, deposeth and saith that the annexed advertise-  
ment was published in the ST. LOUIS POST-DISPATCH, printed within the said City and State, of which  
he is an authorized representative, for 1 times, the first insertion being on the 20th day of  
April 1979, and the last insertion on the 20th day of April 1979

as follows:

1st time,	Apr	20	1979	16th time,			197
2d time,	"		"	17th time	"		"
3d time,	"		"	18th time,	"		"
4th time,	"		"	19th time,	"		"
5th time,	"		"	20th time,	"		"
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8th time,	"		"	23d time,	"		"
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			"	30th time,	"		"

### NOTICE OF PUBLIC HEARING DEPARTMENT OF NATURAL RESOURCES Division of Environmental Quality AIR CONSERVATION COMMISSION

The Missouri Air Conservation Commission will hold two public hearings under the provisions of Chapter 203, RSMo., Suppl. 1975. The first hearing will be held May 23, 1979 at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Missouri, beginning at 8:30 a.m.

The purpose of the hearing will be to hear testimony relating to:

1. Proposed amendments to 10 CSR 10-2.030, 10 CSR 10-3.050, 10 CSR 10-4.030 and 10 CSR 10.050, all entitled Restriction of Emission of Particulate Matter from Industrial Processes.

2. Proposed amendments to 10 CSR 10-3.060 and 10 CSR 10-4.040, both entitled Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating;

3. Proposed amendment to 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants;

4. Proposed amendments to 10 CSR 10-4.020, Definitions;

5. Proposed Rule 10 CSR 10-6.050, Start-Up, Shutdown, and Malfunction Conditions; and

6. Proposed revisions to the St. Louis portion of Missouri's State Implementation Plan.

The second hearing will be May 24, 1979 at the Ramada Inn, 7301 N.W. Tiffany Springs Road, Kansas City, Missouri, beginning at 8:30 a.m., and will be held to hear testimony relating to proposed revisions for the Kansas City, Columbia and New Mexico portions of Missouri's State Implementation Plan.

Information concerning the revisions to the State Implementation Plan and to the proposed amendments and rule as printed in the Missouri Register, Volume 4, Number 4, April 2, 1979, pages 305-310, may be obtained from Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, P.O. Box 1368, Jefferson City, Missouri 65102.

Opportunity to be heard will be afforded to any interested person upon written request to the Commission, addressed to Mr. Schreiber at the above address. Written request to be heard must be made not later than seven (7) days prior to the hearing. Any interested person, whether or not heard, may submit within seven (7) days subsequent to the hearing, a written statement of his views, addressed to Mr. Schreiber.

K. Vance

Asst.

Advertising Manager.

Sworn to and Subscribed before me, this 27th

day of April

1979

*W. H. Hays*

Notary Public, City of St. Louis.

My Commission Expires 8-23-81

My term expires

Notary for the County of St. Louis

which adjoins the City of St. Louis

Cost of advertisement 95.20

Affidavit

.75

X50

\$ 95.95

01-17

Notice of Public  
Hearing  
Department of Natural  
Resources  
Division of  
Environmental Quality  
Air Conservation  
Commissions

The Missouri Air Conservation Commission will hold two public hearings under the provisions of Chapter 203, RSMo., Suppl. 1975. The first hearing will be held May 23, 1979 at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Missouri, beginning at 8:30 a.m.

The purpose of the hearing will be to hear testimony relating to:

1. Proposed amendments to 10 CSR 10-2.030, 10 CSR 10-3.050, 10 CSR 10-4.030, and 10 CSR 10-5.050, all entitled Restriction of Emission of Particulate Matter from Industrial Processes.
2. Proposed amendments to 10 CSR 10-3.060 and 10 CSR 10-4.040, both entitled Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating;
3. Proposed amendment to 10 CSR 10-3.070, Restriction of Emission of Visible Air Contaminants;
4. Proposed amendments to 10 CSR 10-6.020, Definitions;
5. Proposed Rule 10 CSR 10-6.050, Start-Up, Shutdown, and Malfunction Conditions; and
6. Proposed revisions to the St. Louis portion of Missouri's State Implementation Plan.

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## AFFIDAVIT OF PUBLICATION

State of Missouri

County of Audrain

I, Charles Newland being duly sworn ac-

cording to law, state that I am Adv. Insp. of the Mexico Ledger, a (daily) newspaper of general circulation in the County of Audrain where located; which newspaper has been admitted to the Post Office as second class matter in the City of Mexico, Missouri, the city of publication; which newspaper has been published regularly and consecutively for a period of three years and has a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050, Revised Statutes of Missouri 1969. The affixed notice appeared in said newspaper in the following consecutive issues:

1st Insertion No. ....	20 day of <u>April</u> .....	19 <u>79</u>
2nd Insertion No. ....	..... day of .....	19 .....
3rd Insertion No. ....	..... day of .....	19 .....
4th Insertion No. ....	..... day of .....	19 .....
5th Insertion No. ....	..... day of .....	19 .....
6th Insertion No. ....	..... day of .....	19 .....
7th Insertion No. ....	..... day of .....	19 .....
8th Insertion No. ....	..... day of .....	19 .....
9th Insertion No. ....	..... day of .....	19 .....
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15th Insertion No. ....	..... day of .....	19 .....
16th Insertion No. ....	..... day of .....	19 .....
17th Insertion No. ....	..... day of .....	19 .....
18th Insertion No. ....	..... day of .....	19 .....
19th Insertion No. ....	..... day of .....	19 .....
20th Insertion No. ....	..... day of .....	19 .....

Charles Newland

(Editor, Publisher or Printer) Adv Insp

Subscribed and sworn to before me this 11 day of May

19 79

Noima B. B. B.

Notary Public

My commission expires Oct 20, 1981

Printer's Fee \$ 18.75

State of Missouri, } SS.  
CITY OF ST. LOUIS.

RECEIVED  
MAY 12 1979  
AIR POLLUTION CONTROL  
PROGRAM

Personally appeared before the undersigned (a Notary Public within and for the City of St. Louis)

Harrison Billy who being duly sworn, depose and saith that the annexed advertisement was published in the "St. Louis Globe-Democrat" (printed within the said City and State, the newspaper of which he is one of the publishers), for One times, the first insertion being on the 23rd day of April and the last insertion on the day of 1979, as follows:

1st time, April 23	26th time,	<div>NOTICE OF PUBLIC HEARING DEPARTMENT OF NATURAL RESOURCES Division of Environmental Quality AIR CONSERVATION COMMISSION The Missouri Air Conservation Commission will hold two public hearings under the provisions of Chapter 203, RSMo., Suppl. 1975. The first hearing will be held May 23, 1979 at the Holiday Inn-Clayton Plaza, 7730 Bonhomme, St. Louis, Missouri, beginning at 8:30 a.m. The purpose of the hearing will be to hear testimony relating to: 1. Proposed amendments to 10 CSR 10-2.030, 10 CSR 10-3.040, 10 CSR 10-4.030, and 10 CSR 10-5.050, all entitled Restriction of Emission of Particulate Matter from Industrial Processes. 2. Proposed amendments to 10 CSR 10-3.060 and 10 CSR 10-4.040, both entitled Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating; 3. Proposed amendment to 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants; 4. Proposed amendments to 10 CSR 10-6.020, Definitions; 5. Proposed Rule 10 CSR 10-6.050, Start-Up, Shutdown, and Malfunction Conditions; and 6. Proposed revisions to the St. Louis portion of Missouri's State Implementation Plan. The second hearing will be May 24, 1979 at the Ramada Inn, 7301 N.W. Tiffany Springs Road, Kansas City, Missouri, beginning at 8:30 a.m., and will be held to hear testimony relating to proposed revisions for the Kansas City, Columbia and New Mexico portions of Missouri's State Implementation Plan. Information concerning the revisions to the State Implementation Plan and proposed amendments and rule as printed in the Missouri Register, Volume 4, Number 4, April 2, 1979, pages 305-310, may be obtained from Robert J. Schreiber, Jr., Staff Director, Air Pollution Control Program, P.O. Box 1368, Jefferson City, Missouri 65102. Opportunity to be heard will be afforded to any interested person upon written request to the Commission, addressed to Mr. Schreiber at the above address. Written request to be heard must be made no later than seven (7) days prior to the hearing. Any interested person, whether or not heard, may submit within seven (7) days subsequent to the hearing, a written statement of his views, addressed to Mr. Schreiber.</div>
2d time,	27th time,	
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6th time,	31st time,	
7th time,	32d time,	
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25th time,	50th time,	

Printer's Fee, \_\_\_\_\_

Affidavit, \_\_\_\_\_

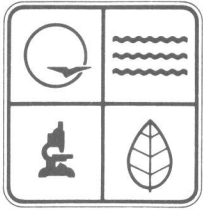
\$ \_\_\_\_\_

Sworn to and subscribed before me, this

18th day of May 1979

James G. Lawless  
Notary Public, City of St. Louis  
JAMES G. LAWLESS

My Commission Expires December 12, 1981



May 15, 1979

WAS  
TDS

RECEIVED

MAY 16 1979

Mr. Art Spratlin  
U.S. Environmental Protection Agency  
Region VII, 324 East 11th Street  
Kansas City, Missouri 64106

EPA - REG VII  
ARHM - ASUP  
KANSAS CITY, MO.

Dear Mr. Spratlin:

As you are probably aware, we have prepared and published in the Missouri Register, a proposed "Start-up, Shutdown, and Malfunction" regulation. In writing that regulation, we made every effort to comply with guidelines contained in Mr. Blaine Rhoades' August 18, 1977 memorandum and letters written by you to Mr. Jim Odendahl, Mr. Blaine Rhoades, and Mr. Charles Copley.

Because of the number of comments we received from industry regarding this proposed regulation, we held a meeting with representatives of industry on May 4, 1979. At that meeting a major topic of discussion was whether or not a "malfunction" regulation can contain a clause which provides for exemptions from emission limits during periods of start-up, shutdown, or malfunction. It has been our understanding that no such clause would be approvable, but information presented by industry representatives seems to indicate that this may not be the case. Copies of this information are enclosed.

Because the proposed regulation is scheduled for public hearing on May 23, 1979, we would appreciate your comments on the enclosed material as soon as possible.

Sincerely yours,

Michael Stafford  
Environmental Engineer  
Air Pollution Control Program

NN:MAS:js

Enclosures

MISSOURI DEPARTMENT OF NATURAL RESOURCES  
P.O. Box 1368 2010 Missouri Blvd. Jefferson City, Missouri 65102 (314) 751-3241

Joseph P. Teasdale Governor  
Fred A. Lufser Director

Division of Environmental Quality  
James P. Odendahl Director

Statement by Thomas D. Gillard\*  
at  
Missouri Air Conversation Commission (MACC) Public  
Hearing on Regulation Revisions\*\*  
October 25, 1978

~~Mr. Chairman and members~~

~~Mr. Chairman and~~ Members of the Commission, my name is Thomas D. Gillard, I reside in Overland Park, Kansas, and am employed by the Environmental Protection Agency, Region VII located in Kansas City, Missouri. I appreciate the opportunity to testify on the regulations which the staff has presented for your consideration.

10CSR10-6.020 Definitions: The definition of Good Engineering Practice stack height is not consistent with the federal definition. The state definition could give credit for stack heights in excess of that allowed by the federal definition. Therefore, this definition would not be approvable as part of the State Implementation Plan (SIP).

Good Engineering Practice is defined by EPA as one and one-half times the building height plus the height or width of the building, whichever is less. This applies to all structures situated at a distance from the stack of not more than five times the height of that building.

The definition of malfunction excludes only those excess emissions caused entirely by poor maintenance. This would not be approvable as a SIP revision because it would define as malfunction episodes of excess emissions which are caused partly by poor maintenance, but which also have other causes.

10CSR10-6.050 The regulation concerning emissions during startup, shutdown and malfunction is unapprovable because it gives automatic exemptions for

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\* Chief, Air Planning and Development Section, Air Support Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region VII 1735 Baltimore, Kansas City, Missouri 64108

\*\* Held at Plaza Inn-Airport, Kansas City, Missouri, October 25, 1978



certain categories of excess emission. In order to be approvable it should state that all excess emissions must be reported and may result in a notice of violation being issued. Instances of truly unavoidable excess emissions can be handled under the enforcement discretion approach.

10CSR10-2.040 10CSR10-5.030 The proposed fuel burning regulations contain definitions of new and existing that overlap the federal New Source Performance Standards. Fossil-fuel fired steam generators which commenced construction after August 17, 1971, are subject to limits more stringent than those in the proposed rules. The old rules 2.040 and 5.030 which are being rescinded have a provision to prevent this confusion.

There is a possible ambiguity in the way the heat input is determined for using the fuel burning curve. We have experienced confusion in the past on the application of the indirect heating curve. We suggest careful consideration of the language of this proposed rule to avoid any potential

problem. *We have not had the opportunity to examine the revisions to these proposed rules presented this morning to the staff. Cannot comment on whether this would be reasonable or effective. Enforceable?*

10CSR10-5.060 The EPA encourages the utilization of solid wastes as supplementary fuel in indirect heating sources. If such indirect heating sources remain subject to the indirect heating curve we could approve the rescission of the prohibition of burning refuse in fuel combustion installations as a revision to the SIP. The regulatory revisions as presently proposed cause confusion on a facility when it is regulated as an incinerator or an indirect heating source.

Under regulation 10CSR10-5.080, regulating particulate emissions from incinerators, any device in which refuse is burned is an incinerator. An incinerator which incorporates heat recovery could be considered an indirect heating source. Thus, the applicable

*Also - Example of two boilers of same size at two different plants. One is single, other is one of group. Would have somewhat different rate, but under Cooper's proposal could be*

*EPA position All position programs*

*Policy that RACT must be applied to sources*

*(State and M.D. with the existing regulations. No primary concern)*

\*\* Something would have to apply in interim.

The indirect heating regulations proposed, 10CSR10-5.030, will require a definition of "indirect heating source" which encompass installations utilizing solid waste as supplementary fuel. At the same time, the definition of "incinerator" in the incinerator regulation needs to be revised to exclude indirect heating sources.

The proposed rescission of the prohibition of burning refuse in fuel combustion installations could be approved as a SIP revision if the state concurrently revises the proposed indirect heating source and incinerator regulations.

10CSR10-5.150 The fence line sulfur dioxide standards proposed in ~~these~~ <sup>this</sup> regulations would not be approvable as revisions to the SIP. The problems involved in determining which sources contribute to ambient violations make this type of regulation unenforceable.

*There are emission limitations* ← *applicable to sources. Therefore, the fence line regulation is superfluous.*

The source specific emission limits contained in these <sup>proposed rule</sup> ~~regulations~~ are

*Essential,* approvable if the control strategy demonstration shows that these limits are sufficient to protect ambient air quality standards. We have conducted air quality simulation modeling using inputs available to us on the St. Joe Lead Company smelter. This modeling indicates that the smelter would not cause violations of the National Ambient Air Quality Standards with emissions of the magnitude to be allowed in this proposed regulation.

*I am saying we would not approve the fence-line regulation as part of the SIP because we cannot have many more regulations in the SIP. But, we are not concerned with other rules*

remarks today do not represent a review of the rules as a revision to the Missouri SIP. The state will have to meet all the requirements for approval of a SIP revision, including the need for a demonstration of attainment and maintenance of the National Ambient Air Quality Standards. These requirements were specified in a letter of October 6, 1978, from

*If the state of Missouri wants a fence-line regulation outside the ST, that will not be part of the SIP*

Dr. Kathleen Q. Camin, Regional Administrator to Ms. Carolyn Ashford the  
Director of the Department of Natural Resources.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MO 18

REGION VII  
1735 BALTIMORE  
KANSAS CITY, MISSOURI 64108

DRAFT

*copy of this, as a  
"draft" was given to  
Bob Schreiber by hand  
on 10/12/78  
TAM*

October 11, 1978

James P. Odendahl, P.E.  
Director  
Division of Environmental Quality  
P.O. Box 1363  
Jefferson City, Missouri 65101

Attention: Robert J. Schreiber, Jr., P.E.  
Staff Director  
Air Quality Program

Dear Mr. Odendahl:

This is in response to your letter of August 15, 1978, conveying to Mr. Charles W. Whitmore of this office proposed regulations to be adopted within the State of Missouri. We have reviewed those regulations under the assumption that they are intended as State Implementation Plan (SIP) revisions and have the following comments:

1. The definition of good engineering practice (GEP) stack height could be made more consistent with the federal definition. Good engineering practice is defined as one and one-half times the building height plus the height or width of the building, whichever is less. This applies to all structures within five building heights of the stack.
2. The definition of malfunction is not needed since malfunction regulations are not likely to be approved by the Environmental Protection Agency (EPA) as described in the next comment.
3. Proposed regulation 6.050 on malfunction would not be approvable as a revision to the SIP. The EPA expects sources to meet emission limits at all times. As Mr. Spratlin explained to Mr. Marshall in his letter of January 31, 1978, all excess emissions are considered to be violations of the applicable standard. The truly rare malfunction can be handled through the enforcement discretion approach.
4. In proposed regulations 2.040 and 5.030 the definitions of "new" and "existing" overlap the New Source Performance Standards. Some provision needs to be made for sources subject to this more restrictive limit.
5. The fence-line sulfur dioxide standards proposed in 3.100 and 5.150 would not be approvable as a revision to the SIP. The problems involved in determining which sources contribute to ambient violations tend to make this type of regulation unenforceable.



6. The idea of source specific limits is a good one. However, we have reservations about the limits proposed for the three smelters. We have conducted air quality simulation modeling using the inputs now available to this office. The results indicate that AMAX and St. Joe will be very close to violating standards. Modeling predicts violations in the vicinity of ASARCO.

7. Proposed regulations 5.030 and 2.040 appear to me to be identical. Regulations and 3.100 and 5.150 are also very similar.

8. It is a good idea to hold a public hearing in Kansas City for regulations that are specifically intended for the St. Louis area?

When these regulations are submitted as revisions to the state plan they must be supported by a control strategy demonstration that shows they are adequate to attain and maintain the air quality standards in the areas to which they apply. We will send you specific information concerning the contents of such a demonstration within the next week. If you have any questions concerning these comments please contact me.

Sincerely yours,

Thomas D. Gillard  
Chief, Air Planning  
and Development Section  
Air Support Branch  
Air and Hazardous Materials Division

BOB SAHREN  
629-5365

FOR "TECHNOLOGY BASED"  
LIMITS MAY NOT REQUIRE  
100% COMPLIANCE  
EXHAUSTION OR LAGS  
B3  
MSD'S

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OPPOSITE  
"AMBIENT  
BASED"

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+ MAINT

## NONATTAINMENT PLAN REVISIONS

### MALFUNCTION AND EXEMPTION PROVISIONS \*

Several of the existing State implementation plans (SIP) provide for an automatic emission limitation exemption during periods of excess emissions due to start-up, shutdown, or malfunction. Generally, EPA agrees that the imposition of a penalty for sudden and unavoidable malfunctions caused by circumstances entirely beyond the control of the owner and/or operator is not appropriate under certain conditions. However, since the SIPs must provide for attainment and maintenance of the national ambient air quality standards, SIP provisions on malfunctions must be narrowly drawn. (SIPs may, of course, omit any provision on malfunctions.)

#### I. AUTOMATIC EXEMPTION APPROACH

If a nonattainment plan revision contains a malfunction provision, it cannot be the type that provides for automatic exemption where a malfunction is alleged by a source. Automatic exemptions might aggravate air quality so as to result in not providing for attainment of the ambient air quality standards as required by Section 172 of the Clean Air Act, as amended. Additional grounds for disapproving a SIP that includes the automatic exemption approach are discussed in more detail at 42 FR 58171 (November 8, 1977) and 42 FR 21372 (April 27, 1977). As a result, EPA will disapprove any nonattainment plan revision that provides for an automatic exemption in those instances where a source claims excess emissions were caused by start-up, shutdown, or malfunction.

#### II. ENFORCEMENT DISCRETION APPROACH--SIP EMISSION LIMITATION ADEQUATE TO ATTAIN AMBIENT STANDARDS

EPA could approve nonattainment plan submittals which incorporate the "enforcement discretion approach." Such plans could include a requirement that places the burden on the source of demonstrating to the appropriate State agency's satisfaction that the excess emissions though constituting a violation were due to an unavoidable malfunction. For nonattainment plan revisions that provide for attainment of the ambient air quality standards for a pollutant by 1982, any malfunction provisions must provide for the commencement of a proceeding to notify the source of its violation and to determine whether enforcement action should be undertaken for any period of excess emissions, whether due to malfunctions or otherwise. (The term "excess emission" means air emission rate which exceeds any applicable emission limitation.)

From: Workshop on Requirements for Nonattainment Area Plans:  
Workbook (March 6-7, 1978 KC)

Commencement of such a proceeding could be by issuance of a notice of violation (or some equivalent State mechanism) with the source being provided the opportunity to establish that the violation was due to an unavoidable malfunction. The malfunction provision should provide that the burden is entirely upon the source to establish that the excess emissions resulted from a true malfunction. (A malfunction is defined as a sudden and unavoidable breakdown of process or air pollution control equipment.)

Based on information submitted by the source, the State must determine whether additional enforcement action is necessary. The following factors must, at a minimum, be considered:

1. The air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;
2. Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off-shift labor and overtime must have been utilized to insure that such repairs were made as expeditiously as possible;
3. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;
4. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality; and
5. The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

The malfunction provision must provide that only if the State determines that each of these criteria are satisfied, no additional course of action could reasonably have been expected of the owner or operator. In such situations, the malfunction provision could provide that the State would not follow the initial notice of violation with any further enforcement action.

### III. SOURCE DEMONSTRATION APPROACH--RACT LIMITATION NOT ADEQUATE TO ATTAIN AMBIENT STANDARDS

Section 172 requires that those nonattainment submittals for photochemical oxidants and carbon monoxide that will not be able to demonstrate attainment by December 31, 1982, must provide for implementation of all reasonably available control measures (RACT).

In a recent Federal court decision (Marathon Oil Co. v. EPA, F.2d (9th Cir., November 21, 1977) [a decision on malfunction provisions in certain water pollution requirements]), the court distinguishes requirements that are technology based (e.g., non-attainment plans based on RACT rather than attainment of ambient standards) from requirements that are health based (e.g., SIP emission limitations for attainment of the ambient standards). The enforcement discretion approach could be approved in RACT SIPs if modified as set forth below. A State may choose, however, as part of the RACT submittal not to provide a malfunction provision (i.e., Section 116). An acceptable malfunction provision for periods of excess emissions could require a source exceeding applicable emission limitations to report the five categories of information set forth in II above. The source could be given the opportunity to demonstrate that the excess emissions resulted from an unavoidable breakdown of process or control equipment, or from unavoidable production problems. Until such information is evaluated by the State, issuance of a notice of violation (or some equivalent State mechanism) would not be required. An approvable malfunction provision should specify that if the source does not sustain its burden of proof to the State's satisfaction, the excess emissions are a SIP violation and appropriate enforcement proceedings will be initiated by the State. If the source is able to demonstrate that the malfunction was genuinely unavoidable, it will not constitute a violation of the emission limitation.

It should be understood that if over a period of time, application of either the enforcement discretion approach or the source demonstration approach does not significantly curtail malfunctions to the extent that they are the cause of ambient violations, the malfunction portion of the SIP will either have to be further revised by the State or EPA will have to disapprove the SIP.

#### IV. PHASING IN AND OUT OF EQUIPMENT, ROUTINE MAINTENANCE, BYPASS PROVISIONS, AND PRODUCTION PROCESS EXCESS EMISSIONS

Any activity or event which can be foreseen and avoided, or planned falls outside of the definition of sudden and unavoidable breakdown of equipment. For example, a sudden breakdown which could have avoided by better maintenance procedures is not a malfunction. In such cases, the control agency must enforce for violations of the emission limitation. Two such common events are phasing in and out of equipment, and routine maintenance.

Phasing in and out of process equipment is part of the normal operation of a source and should be accounted for in the design and implementation of the operating procedure for the process and control equipment. Accordingly, it is reasonable to expect that careful planning will eliminate violations of emission limitations

during such periods. If excess emissions should occur during routine phasing in and out of such equipment, the excess emissions will not be considered as having resulted from a malfunction unless the source can demonstrate that such emissions were actually caused by a sudden and unforeseeable breakdown in the equipment.

Routine maintenance is a predictable event, which can be scheduled at the discretion of the operator, and which can therefore be made to coincide with maintenance on production equipment, or other source shutdowns. Most sources have the ability to build and maintain inventory upon which the source can draw during periods of shutdown for routine maintenance. Consequently, no excess emissions may be allowed for periods of routine maintenance.

It is recognized that in certain circumstances, it is necessary to bypass control equipment to avoid endangering life or sustaining severe property damage. Such bypassing will not be considered a violation of a RACT SIP under the source demonstration approach if the source sustains its burden of proof in the excess emissions report, but will be considered a violation of the attainment SIP under the enforcement discretion approach.

In addition to malfunctions, it is recognized that excess emissions may occasionally occur during normal production processes, even when the control equipment is well designed, operated and maintained. If the source can demonstrate, in its required excess emissions report, that it was operating the plant according to the above malfunction criteria, and that it was scheduling operations to preclude fluctuations, but that the emission limitation was nevertheless violated for production reasons beyond the control of the source, the excess emissions will not be considered a violation of the RACT SIP under the source demonstration approach, but will be considered a violation of the attainment SIP under the enforcement discretion approach.



MO-18

January 31, 1978

James P. Odendahl, P.E.  
Director  
Division of Environmental Quality  
P.O. Box 1368  
Jefferson City, Missouri 65101

Attention: Mr. Michael T. Marshall  
Staff Director  
Air Quality Program

Dear Mr. Odendahl:

On April 27, 1977, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations concerning the periods of excess emissions from the Kennecott Copper Company in Salt Lake City, Utah. According to these regulations, all excess emissions are considered a violation of the applicable standard. In case of such a violation, the owner or operator of the source may submit information to the EPA to assist the Administrator in his selection of the appropriate enforcement option.

The malfunction regulations approved as part of many State Implementation Plans are not consistent with the federally promulgated regulation and do not meet the legal enforceability requirement of 40 CFR 51.22. For these reasons, a program has been initiated by the EPA to review all of the previously approved malfunction regulations.

The review of the Missouri malfunction provisions was conducted in accordance with the enclosed August 18, 1977, memorandum from Mr. R. G. Rhoads. The memorandum summarizes the federal promulgation and provides guidance for the review of the state malfunction regulations. A copy of the April 27, 1977, Federal Register is also enclosed.

The review of the State of Missouri air pollution control regulations indicates corrective action will be necessary before the regulations dealing with malfunction and maintenance of equipment can be fully approved. The state regulations contain malfunction exceptions which relate to specific categories of sources. Each regulation states the provision of the regulation are not applicable when building a new

fire, during startup, during operational breakdown or when cleaning or repairing control equipment. The regulations do not permit the state agency to exercise discretion in determining the applicability of emission limitations. This approach is not consistent with the enforcement discretion approach described in the enclosed Rhoads' memorandum and used in the federal promulgation.

The enforcement discretion approach provides the agency with the opportunity to assess whether the period of excess emissions is due to a malfunction. In such a case, the violation is excusable as a matter of enforcement discretion.

The federal regulation also establishes a procedure which the owner or operator of a source may use to provide information on periods of excess emissions to the agency.

The state provisions for malfunction and maintenance of equipment must be modified to allow the state agency discretion in determining the applicability of the emission limitations. The revised regulations must be based on the criteria stated in the Rhoads' memorandum and should be submitted to the EPA by January 1, 1979. In the event the deficiencies in the state regulations are not corrected, the EPA will be required to propose and promulgate substitute regulations.

If you wish to discuss this please contact me or Ms. Karen M. Solari at 816-274-3791.

Sincerely yours,

William A. Spratlin, Jr., P.E.  
Chief, Air Support Branch  
Air and Hazardous Materials Division

Enclosures

bcc: G. Wright, ENFC-LEGL

ARHM-ASUP:KMSolari:nek:x3791:1-31-78

## SURVEY OF STATE MALFUNCTION REGULATIONS

State	Startup and shutdown emissions exempt from standards	Malfunction emissions exempt from standards	Burden of proof for showing malfunction on source	Provision for continued operation while violating standards (time period)	Requirements for operation and maintenance of equipment	Status of Rule
Alabama			yes	yes	yes	final
Arizona	yes (conditional) <sup>b</sup>	yes (conditional) <sup>b</sup>	yes	yes	yes	final
Arkansas	yes	yes (conditional) <sup>b</sup>	yes	yes	yes	final
Georgia	yes	yes (conditional) <sup>b</sup>				final
Hawaii			yes	yes	yes	final
Idaho		yes (conditional) <sup>b</sup>	yes	yes (variance procedure)	yes	proposed
Illinois	if stipulated in operation permit	if stipulated in operation permit	yes	yes	yes (O&M plans)	proposed
Indiana	operational log book required	operational log book required	yes	yes	yes (O&M plans + 95% operation standard)	final
Iowa	yes (conditional) <sup>a</sup>	no (discretionary enforcement)	yes	yes 8 hr or reasonable period to shutdown	yes (O&M plans 95% time standard)	proposed
Kansas	yes (conditional) <sup>a</sup>	yes	yes	yes	yes	final
Kentucky	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>	yes		yes	final
Louisiana	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>	yes		yes	final
Maine	yes	yes	yes			proposed
Maryland	no	no	yes		yes	
Massachusetts	state has no malfunction rules					
Michigan					yes	final
Minnesota	yes	yes	yes	yes	yes (O&M plans)	proposed
Mississippi	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>				final
Missouri	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>	yes		final	
Montana	discretionary	discretionary		yes (up to 10 days)	no	
Nebraska	yes	yes (conditional) <sup>b</sup>	yes		yes	final
Nevada	no	yes (conditional)	yes			final
New Hampshire				yes		final
New Jersey	none promulgated to date					
New Mexico	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>			yes	final
New York	yes (discretionary)	yes (discretionary)	yes		no	final
North Carolina	none promulgated to date					
North Dakota	yes	yes (conditional) <sup>b</sup>	yes	yes (up to 10 days)	yes	final
Ohio		yes (conditional) <sup>b</sup>	yes	yes (conditional)	yes (O&M plans)	final
Oklahoma				yes		final
Oregon		yes (conditional)		yes (48 hr)	yes	final
Pennsylvania	rules are being developed					
Rhode Island				if > 24 hr variance procedures		final
South Carolina			yes			final
South Dakota		discretionary		yes		final
Tennessee	no	no	yes		yes	final
Texas	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>	no		final	
Utah		yes	yes		yes	
Vermont	no rules proposed					
Virginia	yes		yes	yes		final
Washington	no	no	yes		yes	final
West Virginia				yes (10 days)		final
Wisconsin	yes			no	yes (O&M plans)	final
Wyoming	yes	yes				final
Puerto Rico	yes (conditional) <sup>a</sup>	yes (conditional) <sup>b</sup>		yes (48 hr)	yes	final

a. Startup and shutdown emissions are exempt if good procedures for minimizing emissions are used.  
b. Malfunction emissions are exempt if a source demonstrates malfunction and makes repairs.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: AUG 18 1977

SUBJECT: State Malfunction Regulations

FROM: Richard G. Rhoads, Director  
Control Programs Development Division

TO: Directors, Air and Hazardous Materials Division, Regions I, III - X  
Director, Environmental Programs Division, Region II

As a result of inadequate State regulatory measures controlling sulfur dioxide emissions from non-ferrous smelters in some of the western States, EPA, pursuant to Section 110 of the Clean Air Act, has proposed and promulgated substitute regulations controlling such smelters to the degree needed to attain and maintain National Ambient Air Quality Standards (NAAQS).

These regulations contained no provisions to allow emissions in excess of the established limitation under any circumstance. During the public comment periods and public hearings on the proposed regulations, the smelting industry claimed that emissions in excess of the emission standard may frequently and unavoidably occur as a result of the complex and/or erratic nature of the operation of a sulfuric acid production unit and, therefore, malfunction provisions are needed. As a result of these contentions, regulations were proposed specifying procedures to be followed by a source in the event of excess emissions resulting from a start-up, shutdown or malfunction. Because the substitute regulations permitted the use of supplementary control systems (SCS) as an interim measure for attaining the NAAQS, one objective of the proposed malfunction regulations was to ensure that they would not open the door to abuse through expanded use of SCS. Thus, rather than exemptions, the proposed regulations established procedures for reporting information to the Administrator for his use in selecting the appropriate enforcement option.

Subsequent to the proposal of the malfunction regulations, members of smelting industry involved in litigation with the Agency contended, among other things, that the concept of the proposed regulations was inconsistent with the Agency's prior approval of various State malfunction regulations which, in some cases, allow blanket exemptions from meeting the emission standard during periods of malfunctions. To avoid a possible court reversal grounded on inconsistent Agency conduct, the Agency now finds it necessary to initiate a nationwide program to ensure uniformity between State malfunction regulations approved as part of the State Implementation Plans (SIPs) and the federally promulgated malfunction provisions (42 FR 21472). Such a program, to be conducted by the Regional Offices as indicated in a memorandum dated July 14, 1977, from the Acting Assistant Administrator for Office of Air and Waste Management to the Regional Administrators, requires a review of all previously approved



malfunction regulations. Should the review indicate that a regulation does not satisfy the requirements of 40 CFR Part 51, the affected State will be requested to take corrective action.

\* Briefly, the Federal malfunction regulations promulgated in the April 27, 1977, Federal Register (42 FR 21472) recognize the possibility of malfunctions but, as a vehicle for reducing the frequency of such episodes, attempt to encourage good maintenance procedures by defining all periods of excess emissions as violations of the applicable emissions standard. To provide EPA with the opportunity to assess whether an excursion is due to a malfunction and, therefore, excusable as a matter of enforcement discretion, the regulations also establish a procedure whereby the owner or operator of the smelter may supply information to the Administrator prior to any action taken under Section 113 of the Clean Air Act. Although the information to be supplied is not limited in scope, the regulation does require that if information is given to the Agency, it include: [(1) identification of the emission points; (2) the magnitude of the excess emissions; (3) the identity of the process or control equipment causing the excess emissions; (4) the cause and nature of the excess emissions; and, (5) a description of the steps taken by the owner or operator of the subject smelter to remedy the situation causing the emissions, prevent a recurrence and limit the excess emissions.] Finally, nothing in the regulation relieves the source of its obligation to attain and maintain the NAAQS for SO<sub>2</sub> during the excess emission period nor precludes the Administrator from initiating any appropriate actions under Section 113 or 303 of the Clean Air Act.

The review to be undertaken by your office should employ the same basic considerations that were central to the rulemaking in April 27, 1977, Federal Register, i.e., that malfunction regulations may not automatically exempt a source from the applicable emission limitations. Generally, the only provisions that may be fully approved are those employing the "enforcement discretion" approach (as opposed to the discretionary exemption approach) with criteria analogous to those of the promulgated regulation. This does not mean that only those regulations which are the literal equivalent of the promulgated regulation can be approved and that EPA must disapprove all others in their entirety. To accommodate State agencies that may not have the statutory authority to promulgate such regulations, EPA can partially approve regulations which employ the exemption approach if the exemption results from the exercise of discretion by the pollution control agency, and if the criteria used are similar to those in the promulgated regulation. In such instances, the Federal Register package would have to state that EPA is approving the discretion-grounded procedures only, and that exemptions granted through those procedures are not applicable as a matter of Federal law. The package would also note that while EPA reserves the right to enforce against any excess emissions, that discretion would normally be exercised according to and consistent with the criteria specified in the SIP.



If the burden in a given malfunction regulation is on the regulatory agency to determine whether the excess emission is due to a bona fide, unavoidable malfunction or to poor maintenance procedures, careful attention is required. EPA (taking into account the fact that State agencies have much closer contacts with sources than does EPA) can only approve the regulation if the provisions are not so vague as to render the regulation unenforceable. It must be kept in mind that all criteria on which to base a disapproval must relate to the requirements of 40 CFR Part 51.

Finally, in the event the State fails to correct the noted deficiency, EPA would be required to propose and subsequently promulgate a substitute regulation. Such regulation would be modeled after the regulation promulgated in the April 27, 1977, Federal Register. Furthermore, all Federal Register packages either approving/disapproving State malfunction regulation or promulgating a substitute malfunction regulation should be submitted as a "special action" revision in accordance with the procedures set forth in OAQPS Guideline 1.2-005A. Any questions your staff may have on this matter should be directed to Bob Schell of my staff.

cc: J. Bonine, OGC  
E. Reich, DSSE  
Directors, Enforcement Division, Regions I - X

624-5365

## RULES AND REGULATIONS

preamble to EPA's replacement regulation which is being promulgated in another section of this Federal Register.

EPA's authority to disapprove the regulation was questioned by the state and Kennecott. However, EPA's position that constant control technology must be utilized to achieve the NAAQS and that a supplementary control system (SCS) may be credited as an interim control measure only after the application of RACT is supported by the weight of judicial authority. See, e.g., *Big Rivers Electric Corporation, et al. v. EPA, et al.*, 523 F.2d 16 (6th Cir., 1975) and *Kennecott Copper Corporation v. Train*, 526 F.2d 1149 (9th Cir., 1975).<sup>1</sup> It is EPA's position that the state regulation does not require installation of RACT. In addition, recently obtained air monitoring data indicate that even after RACT is installed by the company, the NAAQS will not be met in the vicinity of the Kennecott plant. Therefore, in the near future EPA will propose, as an interim measure, an SCS system for the smelter. The Agency is also promulgating a malfunction regulation, which will take into consideration the problem of malfunction and yet not render the emission limitation unenforceable.

Kennecott Copper Corporation also commented that, because of their brevity, the EPA notice proposing disapproval of the state regulation and the supportive documentation did not comply with the Administrative Procedure Act. It is the Agency's position that the notice and the supporting documents complied with the requirements of the Administrative Procedure Act, inasmuch as they adequately described the subject and the issues of the proposed action, enabling the public to understand and meaningfully comment.

Since no persuasive technical or legal evidence has been presented in support of this regulation, the Administrator is disapproving Section 2.5 as proposed. The SO<sub>x</sub> regulation for Kennecott, promulgated by EPA on November 26, 1975, the malfunction regulation being promulgated by EPA, and the SCS regulation to be proposed, will provide for the attainment of the NAAQS for SO<sub>x</sub> until such time as the state adopts and submits an approvable SO<sub>x</sub> regulation to EPA.

Insofar as the provisions approved herein have existed as State law for a substantial period of time and, as a result, do not impose any additional burdens on sources subject to such provisions, no useful purpose would be served in deferring the effective date of this action for 30 days. Accordingly, good cause is found for instituting this rule-making effective immediately.

**ADDRESSES:** Copies of the public comments and EPA's detailed analysis of the comments are available for public inspection at the EPA offices listed below:

Environmental Protection Agency, Region VIII, Air and Hazardous Materials Division, Suite 900, 1600 Lincoln Street, Denver, Colo. 80202.

<sup>1</sup> But see *Kennecott Copper Corporation v. Train*, 9 ERO 1693 (D.C. Nev. 1978).

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.  
Environmental Protection Agency, Room 4223, Federal Building, 126 South State Building, Salt Lake City, Utah 84111.  
(42 U.S.C. 1857c-8.)

Dated: March 30, 1977.

BARBARA BLUM,  
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### Subpart TT—Utah

1. In § 52.2320, paragraph (c) is amended to read as follows:

§ 52.2320 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified:

(5) The Revised Utah Air Conservation Regulations on July 10, 1975, by the Governor.

2. In § 52.2325, paragraph (a) is amended to read as follows:

§ 52.2325 Control strategy: Sulfur oxides.

(a) . . . Furthermore, section 2.5 of the Utah Air Conservation Regulations is disapproved because it does not provide for attainment of the short-term ambient standards for SO<sub>x</sub>, is unenforceable, and allows the utilization of a supplementary control system without requiring the application of reasonably available control technology.

[FR Doc.77-12000 Filed 4-26-77; 8:45 am]

[FRL 704-7]

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

##### Utah SO<sub>x</sub> Control Strategy

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** The purpose of this rule-making is to finalize regulations relating to excess emissions due to start-up shutdown and malfunction from the Kennecott Copper Corporation smelter located in Salt Lake City, Utah.

**EFFECTIVE DATE:** May 27, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Louis W. Johnson, Chief, Planning and Operations Section, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. (303-837-3711.)

**SUPPLEMENTARY INFORMATION:** On October 29, 1975, EPA proposed regulations which require the reporting of excess emissions from the Kennecott Copper Corporation smelter to the Administrator. In response to the proposed regulations, various issues have been raised by the owner and operator of the subject

smelter. These comments object to the proposed regulations because: (1) The proposal does not grant an automatic exemption from the emissions limitations after compliance with the reporting requirement; (2) there is no provision relating to the excess emissions resulting from the phasing in or out of process and control equipment or from routine maintenance of this equipment; (3) the proposal of a "reporting requirement" is inconsistent with the Agency's alleged approval of State malfunction provisions which exempt sources from applicable emission limitations during periods of excess emissions.

#### DISCRETION VS. AUTOMATIC EXEMPTION

The claim that an emission limitation exemption should be automatic during periods of excess emissions due to start-up, shutdown or malfunction is based on smelter's contention that to penalize an operation for emissions that are beyond the control of a prudent operator is unreasonable. The Administrator agrees that the issuance of an administrative order or the initiation of judicial action following a period of excess emissions caused by circumstances beyond the control of the operator may not be appropriate. However, the Administrator has determined that the automatic granting of a regulatory exemption for these periods of excess emissions is not a suitable remedy.

Although the Administrator recognizes that some relief should be afforded during certain upset situations, the promulgation of an upset regulation should not diminish the smelter's incentive to develop better operating and maintenance procedures. If an automatic exemption were promulgated, it would encourage the smelter to claim, after every period of excess emissions, that an exemption is warranted. If the operator of the smelter were so inclined, it would be relatively easy for the company, as a result of the burden of proof placement, to effectively block all Federal enforcement against the smelter.

Clearly, the better approach and the one which is consistent with the enforcement imperatives of section 110 is to place the burden of proving the existence of an unavoidable malfunction on the source. Consequently, the only enforceable means available to the Agency in dealing with all emission excursions—be they potentially due to malfunctions or otherwise—is to issue notices of violations with the source being given an opportunity to prove that the violation was due to an unavoidable malfunction.

The Administrator has concluded that the appropriate enforcement process, as prescribed by section 113, affords ample opportunity for the owner or operator of the smelter to identify malfunctions and upsets beyond his reasonable control prior to the issuance of an administrative order. Therefore, the Administrator has determined that the way to encourage the continued improvement in the operation of a smelter and its attendant control equipment is to retain his discretion to order administrative actions or initiate judicial proceedings following a

# PHASING IN AND OUT OF EQUIPMENT

The Administrator finds that routine phasing in and out of process equipment is part of the normal operation of a smelter and should be accounted for in the design and implementation of the operating procedure for the process equipment. Accordingly, the Administrator concludes that it is reasonable to expect that emission limitations will not be violated during such periods. If excess emissions should occur during routine phasing in and out of process equipment the excess emissions will not be considered as malfunctions unless the source can demonstrate that such emissions were caused by a breakdown in the process equipment.

## ROUTINE MAINTENANCE

The proposed regulations did not address periods of routine maintenance in the malfunction provisions. This action was consistent with the basic purpose of the proposed regulation, which was to address excess emissions caused by "sudden and unavoidable failure" of process or control equipment. Allowing a smelter to operate independent of the emission control equipment during periods of routine maintenance would be inconsistent with binding legal interpretations of section 110 of the Clean Air Act. These legal opinions dictate that prior to allowing a source to use dispersion techniques to attain and maintain national ambient air quality standards (NAAQS), the Agency must require such source to install all available controls. Permitting a source to employ dispersion techniques to attain and maintain national standards without constant controls during periods of routine maintenance is contrary to such legal decisions. This is because routine maintenance can be considered as basically a predictable event, which can be scheduled to a large extent at the discretion of the smelter operator. As a result of this planning ability, routine maintenance can be scheduled to coincide with maintenance on production equipment or other smelter shutdowns. As such, the control equipment is always available when the equipment it serves is operational. Moreover, since any industry, including the smelting industry, has the ability to build and maintain inventory, the aspect of planning routine maintenance during periods of smelter shutdown should not be of grave concern to the smelter operator. Consequently, no excess emissions will be allowed during periods of routine maintenance.

In addition, permitting excess emissions during periods of routine maintenance would be inconsistent with the Agency's approach to new source performance standards (NSPS) which does not permit excess emissions during periods of scheduled maintenance. In cases where Agency policies for new sources differ from those for existing sources, the policy for existing sources is generally more stringent. This is due to the fact that the Clean Air Act re-

quires existing sources to be controlled to protect the public health and welfare while, except for new source review, the principal focus for new sources is technology based. Were the Agency to depart from existing policy and adopt maintenance provisions for existing smelters that were more lenient than the maintenance approach it has adopted for new smelters, it would have an impossible enforcement problem in the event that a smelter chose to expand an existing smelting site. With this in mind and given that the problems associated with scheduled acid plant maintenance are essentially the same whether the acid plant is needed to meet NSPS or NAAQS, the Agency believes it appropriate to treat scheduled maintenance under both situations in the same way.

## STATE MALFUNCTION PROVISIONS

Kennecott has argued that the approach taken in these regulations is inconsistent with various malfunction regulations approved by EPA as part of State Implementation Plans (SIPs) submitted by several western States. In response, the Agency will undertake a review of all State malfunction regulations. Should the review indicate that the regulations do not satisfy the requirements of Section 110 of the Act, the affected States will be requested to take corrective action. In reviewing these regulations the Agency will focus on the same considerations that were central to the rulemaking promulgated herein. If, in reviewing the involved State regulations, it becomes clear that they have the potential for permitting violations of NAAQS by exempting malfunction episodes from applicable emission limitations, the malfunction provisions will be rejected on the ground that they interfere with attainment of the national standards.

Finally, where ambient standards are being achieved by virtue of an interim supplementary control system, a tall stack and reasonably available control technology (RACT), a SIP provision exempting malfunction periods from applicable emission limitations might not result in ground level concentrations that exceed the standards. However, such a provision would have the effect of condoning emissions above the RACT emission level. While it might be appropriate to forbear from enforcing where the malfunction is beyond the control of the source, EPA believes that it would be inappropriate to condone, by exemption, emission levels above the RACT floor. Thus, in evaluating the SIPs in question, EPA will (in addition to the other factors noted above) regard as unacceptable any malfunction provision which, as a matter of regulatory exemption, allows emission levels to exceed the RACT floor during malfunction conditions.

## OUTLINE OF REGULATIONS

Briefly, the regulations define all periods of excess emissions as violations of the applicable emissions standards and establish a procedure whereby the owner

period of excess emissions. However, the Administrator also finds that it is reasonable to detail the enforcement procedure that he will follow when a period of excess emissions occurs and indicate how this discretion will be exercised.

Upon receipt of the smelter's submission of the report of excess emissions required under § 52.2325(d)(3)(viii) of this subpart, a Notice of Violation will be issued. This procedure is consistent with the decision in *Wisconsin Environmental Decade v. Train*, 395 F. Supp. 313 (W.D. Wis., 1975), and other recent district court rulings. After the issuance of the Notice, the Administrator will consider any information developed by the source which more fully explains the circumstances of the violation and the source's actions in response thereto. This information will be used in evaluating the seriousness of the violation and any good faith efforts of the owner or operator of the smelter to comply and in determining whether further Agency action is appropriate.

In his assessment of the circumstances of the emission of pollutants in violation of the applicable emission limitations, the Administrator will determine whether:

- (1) The air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;

- (2) Repairs were made as expeditiously as practicable including the use of off-shift labor and overtime;

- (3) The amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions; and,

- (4) Bypass of strong SO<sub>2</sub> streams around acid plants was limited to the maximum extent practicable.

If each of these determinations is affirmative in the opinion of the Agency, there could be no additional course of action which would be reasonable for the owner or operator to implement. Moreover, the situation would not warrant the imposition of criminal penalties. Accordingly, the Administrator would generally not follow the Notice of Violation with any further action.

The promulgation of a policy that requires the subject smelter to present evidence in mitigation of a finding of violation, if it desires to contest the Administrator's enforcement action, does not invite frustration of the enforcement of emissions standards. However, at the same time, ample opportunity is provided to the source to explain the circumstances surrounding the excess emissions before any Agency action is taken which mandates the expenditure of capital for additional control or results in any judicial liability being affixed. In the Administrator's view, this approach most effectively encourages continued development of better operating and maintenance procedures without imposing unreasonable requirements on the source.



## RULES AND REGULATIONS

or operator of the Kennecott smelter may supply information to the Administrator in order to enable him to carry out his statutory duties. Although the information to be supplied is not limited in scope, the regulation does require that if information is given to the Agency, it include:

- (1) identification of the emission points;
- (2) the magnitude of the excess emissions;
- (3) the identity of the process or control equipment causing the excess emissions;
- (4) the cause and nature of the excess emissions; and
- (5) a description of the steps taken by the owner or operator of the subject smelter to remedy the situation causing the emissions, prevent a recurrence and limit the excess emissions. Finally, nothing in the regulation relieves the source of its obligation to attain and maintain the national ambient air quality standards for SO<sub>2</sub>, nor precludes the Administrator from initiating any appropriate actions under Sections 113 or 303 of the Clean Air Act.

This rulemaking will become effective on May 27, 1977, and is authorized by Sections 110, 113, and 301 of the Clean Air Act (42 U.S.C. 1857c-5, 1857c-8, and 1857g).

Dated: March 30, 1977.

BARBARA BLUM,  
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart TT—Utah**

In § 52.2325, paragraph (e) is added as follows:

§ 52.2325 Control Strategy: Sulfur oxides.

(e) *Compliance with emission standards; Reporting excess emissions during periods of start-up, shutdown, and malfunction: Kennecott smelter complex.*

(1) The provisions of this paragraph are applicable to the Kennecott Copper Corporation located in Salt Lake County, Utah, in the Wasatch Front Intrastate Air Quality Control Region.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Clean Air Act or Parts 51, 52, or 60 of this chapter.

(i) The term "excess emissions" means an emission rate which exceeds any applicable emission limitation prescribed by paragraph (d) of this section. The averaging time and test procedures for determining such excess emissions shall be as specified as part of the applicable emission limitation.

(ii) The term "malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or a process to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

(iii) The term "start-up" means the setting into operation of any air pollu-

tion control equipment or process equipment for any purpose, except routine phasing in of process equipment.

(iv) The term "shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

(v) The term "violation" means any incident of excess emissions, regardless of the circumstances of the occurrence.

(3) (i) In the case of excess emissions from the Kennecott smelter for which the Administrator has issued a Notice of Violation, the owner or operator of the subject smelter may submit the following data in order to assist the Administrator in carrying out his statutory responsibility under section 113 of the Clean Air Act to: (A) take into account, when issuing an administrative order under section 113(a)(4), the "seriousness of the violation and any good faith efforts to comply" with paragraph (d) of this section, or (B) initiate a judicial action under section 113(b)(1) or (2) or section 113(c)(1) (A) or (B), in appropriate circumstances.

(ii) Each submission shall include, as a minimum:

(A) The identity of the stack and/or other emission point where the excess emissions occurred;

(B) The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(C) The time and duration of the excess emissions;

(D) The identity of the equipment causing the excess emissions;

(E) The nature and cause of such excess emissions;

(F) If the excess emissions were the result of a malfunction, steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunctions;

(G) The steps taken to limit the excess emissions; and

(H) Documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions.

(4) At any time, the owner or operator of the Kennecott smelter has the right to submit data, information or reports to the Administrator, including but not limited to the information specified in paragraph (e)(2)(ii) above, in order to assist the Administrator in carrying out his statutory responsibilities under sections 113 and 303 of the Clean Air Act.

(5) The submittal of information pursuant to paragraphs (e)(3) and (4) of this paragraph shall be used by the Administrator in determining the nature of the violation, the need for further enforcement action and the appropriate sanctions, if any, under the provisions of the Clean Air Act.

(6) Nothing in this section shall be construed to limit the obligation of the source to attain and maintain the national air quality standards for SO<sub>2</sub>, nor the authority of the Administrator to institute actions under sections 113 and 303 of the Clean Air Act or to exercise his authority under section 114 of the Clean Air Act.

[FR Doc. 77-12001 Filed 4-26-77; 8:45 am]

**Title 41—Public Contracts and Property Management**

**CHAPTER 128—DEPARTMENT OF JUSTICE**

**PART 128-18—ACQUISITION OF REAL PROPERTY**

**Subpart 128-18.50—Uniform Relocation Assistance and Real Property Acquisition Policies**

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** This rule prescribes the procedures and regulations governing relocation assistance and land acquisition policies of the Department of Justice under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This action incorporates changes in the guidelines for agency implementation of General Service Administration's Federal Management Circular 74-8 published on October 4, 1974 and Supplement 1 thereto, published on July 3, 1975.

**EFFECTIVE DATE:** This rule becomes effective on April 27, 1977.

**FOR FURTHER INFORMATION CONTACT:**

William H. O'Donoghue, Chief, Administrative Programs Section, Security and Administrative Programs Staff, Office of Management and Finance, Department of Justice, 10th and Constitution Ave., NW., Washington, D.C. 20530 (Phone 739-2971).

**SUPPLEMENTARY INFORMATION:** On August 18, 1976 there was published in the FEDERAL REGISTER (41 FR 34636) a notice of proposed rulemaking in Chapter 128 of Title 41 of the Code of Federal Regulations. The Department of Justice proposed to revise its regulations governing relocation assistance and land acquisition policies under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Interested parties were given the opportunity to submit, not later than August 31, 1976, written views on the proposed revised regulations. Comments were received from one private citizen. The comments suggested (1) the inclusion of a paragraph under § 128-18.5003-21 to permit individuals to receive expenses for physical changes to the replacement site and for the conversion of equipment and (2) to change the paragraph under § 128-18.5003-24(a) to entitle the displaced person to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the "net proceeds of